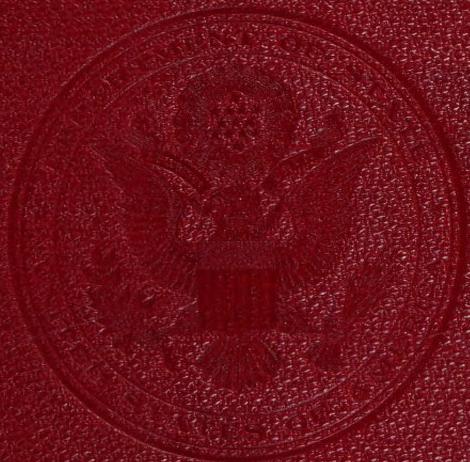


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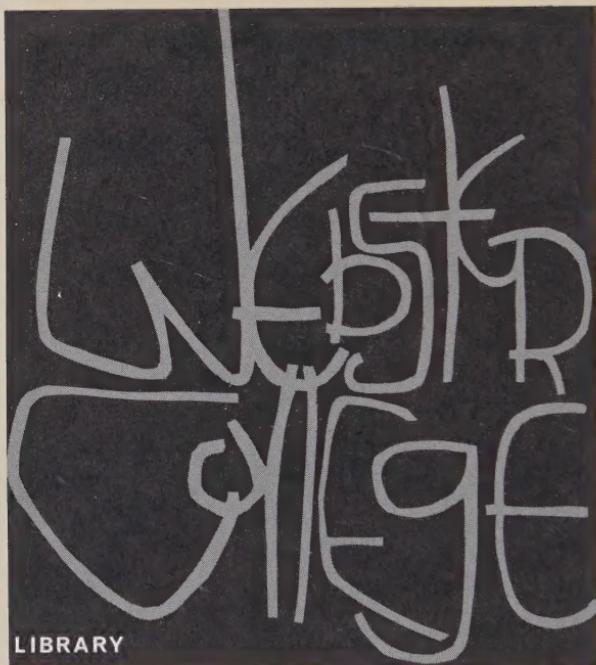
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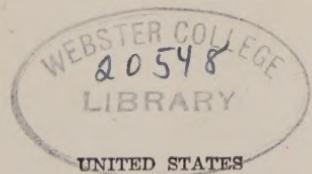
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ADDRESS OF THE PRESIDENT

DECEMBER 2, 1918

GENTLEMEN OF THE CONGRESS: The year that has elapsed since I last stood before you to fulfil my constitutional duty to give to the Congress from time to time information on the state of the Union has been so crowded with great events, great processes, and great results that I cannot hope to give you an adequate picture of its transactions or of the far-reaching changes which have been wrought in the life of our nation and of the world. You have yourselves witnessed these things, as I have. It is too soon to assess them; and we who stand in the midst of them and are part of them are less qualified than men of another generation will be to say what they mean, or even what they have been. But some great outstanding facts are unmistakable and constitute, in a sense, part of the public business with which it is our duty to deal. To state them is to set the stage for the legislative and executive action which must grow out of them and which we have yet to shape and determine.

A year ago we had sent 145,918 men overseas. Since then we have sent 1,950,513, an average of 162,542 each month, the number in fact rising, in May last, to 245,951, in June to 278,760, in July to 307,182, and continuing to reach similar figures in August and September—in August 289,570 and in September 257,438. No such movement of troops ever took place before, across three thousand miles of sea, followed by adequate equipment and supplies, and carried safely through extraordinary dangers of attack—dangers which were alike strange and infinitely difficult to guard against. In all this movement only seven hundred and fifty-eight men were lost by enemy attack, six hundred and thirty of whom were upon a single English transport which was sunk near the Orkney Islands.

I need not tell you what lay back of this great movement of men and material. It is not invidious to say that back of it lay a supporting organization of the industries of the country and of all its productive activities more complete, more thorough in method and effective in result, more spirited and unanimous in purpose and effort than any other great belligerent had been able to effect. We profited greatly by the experience of the nations which had already been engaged for nearly three years in the exigent and exacting business, their every resource and every executive proficiency taxed to the utmost. We were their pupils. But we learned quickly and acted with a promptness and a readiness of cooperation that justify our great pride that we were able to serve the world with unparalleled energy and quick accomplishment.

But it is not the physical scale and executive efficiency of preparation, supply, equipment and despatch that I would dwell upon, but the mettle and quality of the officers and men we sent over and of the sailors who kept the seas, and the spirit of the nation that stood be-

hind them. No soldiers or sailors ever proved themselves more quickly ready for the test of battle or acquitted themselves with more splendid courage and achievement when put to the test. Those of us who played some part in directing the great processes by which the war was pushed irresistibly forward to the final triumph may now forget all that and delight our thoughts with the story of what our men did. Their officers understood the grim and exacting task they had undertaken and performed it with an audacity, efficiency, and unhesitating courage that touch the story of convoy and battle with imperishable distinction at every turn, whether the enterprise were great or small—from their great chiefs, Pershing and Sims, down to the youngest lieutenant; and their men were worthy of them—such men as hardly need to be commanded, and go to their terrible adventure blithely and with the quick intelligence of those who know just what it is they would accomplish. I am proud to be the fellow-countryman of men of such stuff and valor. Those of us who stayed at home did our duty; the war could not have been won or the gallant men who fought it given their opportunity to win it otherwise; but for many a long day we shall think ourselves “accurs’d we were not there, and hold our manhoods cheap while any speaks that fought” with these at St. Mihiel or Thierry. The memory of those days of triumphant battle will go with these fortunate men to their graves; and each will have his favorite memory. “Old men forget; yet all shall be forgot, but he’ll remember with advantages what feats he did that day!”

What we all thank God for with deepest gratitude is that our men went in force into the line of battle just at the critical moment when the whole fate of the world seemed to hang in the balance and threw their fresh strength into the ranks of freedom in time to turn the whole tide and sweep of the fateful struggle—turn it once for all, so that henceforth it was back, back, back for their enemies, always back, never again forward! After that it was only a scant four months before the commanders of the Central empires knew themselves beaten; and now their very empires are in liquidation!

And throughout it all how fine the spirit of the nation was: what unity of purpose, what untiring zeal! What elevation of purpose ran through all its splendid display of strength, its untiring accomplishment. I have said that those of us who stayed at home to do the work of organization and supply will always wish that we had been with the men whom we sustained by our labor; but we can never be ashamed. It has been an inspiring thing to be here in the midst of fine men who had turned aside from every private interest of their own and devoted the whole of their trained capacity to the tasks that supplied the sinews of the whole great undertaking! The patriotism, the unselfishness, the thoroughgoing devotion and distinguished capacity that marked their toilsome labors, day after day, month after month, have made them fit mates and comrades of the men in the trenches and on the sea. And not the men here in Washington only. They have but directed the vast achievement. Throughout innumerable factories, upon innumerable farms, in the depths of coal mines and iron mines and copper mines, wherever the stuffs of industry were to be obtained and prepared, in the shipyards, on the railways, at the docks, on the sea, in every labor that

was needed to sustain the battle lines, men have vied with each other to do their part and do it well. They can look any man-at-arms in the face, and say, We also strove to win and gave the best that was in us to make our fleets and armies sure of their triumph!

And what shall we say of the women—of their instant intelligence, quickening every task that they touched; their capacity for organization and cooperation, which gave their action discipline and enhanced the effectiveness of everything they attempted; their aptitude at tasks to which they had never before set their hands; their utter self-sacrifice alike in what they did and in what they gave? Their contribution to the great result is beyond appraisal. They have added a new luster to the annals of American womanhood.

The least tribute we can pay them is to make them the equals of men in political rights as they have proved themselves their equals in every field of practical work they have entered, whether for themselves or for their country. These great days of completed achievement would be sadly marred were we to omit that act of justice. Besides the immense practical services they have rendered, the women of the country have been the moving spirits in the systematic economies by which our people have voluntarily assisted to supply the suffering peoples of the world and the armies upon every front with food and everything else that we had that might serve the common cause. The details of such a story can never be fully written, but we carry them at our hearts and thank God that we can say that we are the kinsmen of such.

And now we are sure of the great triumph for which every sacrifice was made. It has come, come in its completeness, and with the pride and inspiration of these days of achievement quick within us we turn to the tasks of peace again—a peace secure against the violence of irresponsible monarchs and ambitious military coteries and made ready for a new order, for new foundations of justice and fair dealing.

We are about to give order and organization to this peace not only for ourselves but for the other peoples of the world as well, so far as they will suffer us to serve them. It is international justice that we seek, not domestic safety merely. Our thoughts have dwelt of late upon Europe, upon Asia, upon the Near and the Far East, very little upon the acts of peace and accommodation that wait to be performed at our own doors. While we are adjusting our relations with the rest of the world is it not of capital importance that we should clear away all grounds of misunderstanding with our immediate neighbors and give proof of the friendship we really feel? I hope that the members of the Senate will permit me to speak once more of the unratified treaty of friendship and adjustment with the Republic of Colombia. I very earnestly urge upon them an early and favorable action upon that vital matter. I believe that they will feel, with me, that the stage of affairs is now set for such action as will be not only just but generous and in the spirit of the new age upon which we have so happily entered.

So far as our domestic affairs are concerned the problem of our return to peace is a problem of economic and industrial readjustment. That problem is less serious for us than it may turn out to be for the nations which have suffered the disarrangements and the

losses of war longer than we. Our people, moreover, do not wait to be coached and led. They know their own business, are quick and resourceful at every readjustment, definite in purpose, and self-reliant in action. Any leading strings we might seek to put them in would speedily become hopelessly tangled because they would pay no attention to them and go their own way. All that we can do as their legislative and executive servants is to mediate the process of change here, there, and elsewhere as we may. I have heard much counsel as to the plans that should be formed and personally conducted to a happy consummation, but from no quarter have I seen any general scheme of "reconstruction" emerge which I thought it likely we could force our spirited business men and self-reliant laborers to accept with due pliancy and obedience.

While the war lasted we set up many agencies by which to direct the industries of the country in the services it was necessary for them to render, by which to make sure of an abundant supply of the materials needed, by which to check undertakings that could for the time be dispensed with and stimulate those that were most serviceable in war, by which to gain for the purchasing departments of the Government a certain control over the prices of essential articles and materials, by which to restrain trade with alien enemies, make the most of the available shipping, and systematize financial transactions, both public and private, so that there would be no unnecessary conflict or confusion—by which, in short, to put every material energy of the country in harness to draw the common load and make of us one team in the accomplishment of a great task. But the moment we knew the armistice to have been signed we took the harness off. Raw materials upon which the Government had kept its hand for fear there should not be enough for the industries that supplied the armies have been released and put into the general market again. Great industrial plants whose whole output and machinery had been taken over for the uses of the Government have been set free to return to the uses to which they were put before the war. It has not been possible to remove so readily or so quickly the control of foodstuffs and of shipping, because the world has still to be fed from our granaries and the ships are still needed to send supplies to our men oversea and to bring the men back as fast as the disturbed conditions on the other side of the water permit; but even there restraints are being relaxed as much as possible and more and more as the weeks go by.

Never before have there been agencies in existence in this country which knew so much of the field of supply, of labor, and of industry as the War Industries Board, the War Trade Board, the Labor Department, the Food Administration, and the Fuel Administration have known since their labors became thoroughly systematized; and they have not been isolated agencies; they have been directed by men which represented the permanent departments of the Government and so have been the centers of unified and cooperative action. It has been the policy of the Executive, therefore, since the armistice was assured (which is in effect a complete submission of the enemy) to put the knowledge of these bodies at the disposal of the business men of the country and to offer their intelligent mediation at every point and in every matter where it was desired. It is surprising

how fast the process of return to a peace footing has moved in the three weeks since the fighting stopped. It promises to outrun any inquiry that may be instituted and any aid that may be offered. It will not be easy to direct it any better than it will direct itself. The American business man is of quick initiative.

The ordinary and normal processes of private initiative will not, however, provide immediate employment for all of the men of our returning armies. Those who are of trained capacity, those who are skilled workmen, those who have acquired familiarity with established businesses, those who are ready and willing to go to the farms, all those whose aptitudes are known or will be sought out by employers will find no difficulty, it is safe to say, in finding place and employment. But there will be others who will be at a loss where to gain a livelihood unless pains are taken to guide them and put them in the way of work. There will be a large floating residuum of labor which should not be left wholly to shift for itself. It seems to me important, therefore, that the development of public works of every sort should be promptly resumed, in order that opportunities should be created for unskilled labor in particular, and that plans should be made for such developments of our unused lands and our natural resources as we have hitherto lacked stimulation to undertake.

I particularly direct your attention to the very practical plans which the Secretary of the Interior has developed in his annual report and before your committees for the reclamation of arid, swamp, and cut-over lands which might, if the States were willing and able to cooperate, redcem some three hundred million acres of land for cultivation. There are said to be fifteen or twenty million acres of land in the West, at present arid, for whose reclamation water is available, if properly conserved. There are about two hundred and thirty million acres from which the forests have been cut but which have never yet been cleared for the plow and which lie waste and desolate. These lie scattered all over the Union. And there are nearly eighty million acres of land that lie under swamps or subject to periodical overflow or too wet for anything but grazing which it is perfectly feasible to drain and protect and redeem. The Congress can at once direct thousands of the returning soldiers to the reclamation of the arid lands which it has already undertaken, if it will but enlarge the plans and the appropriations which it has entrusted to the Department of the Interior. It is possible in dealing with our unused land to effect a great rural and agricultural development which will afford the best sort of opportunity to men who want to help themselves; and the Secretary of the Interior has thought the possible methods out in a way which is worthy of your most friendly attention.

I have spoken of the control which must yet for a while, perhaps for a long while, be exercised over shipping because of the priority of service to which our forces overseas are entitled and which should also be accorded the shipments which are to save recently liberated peoples from starvation and many devastated regions from permanent ruin. May I not say a special word about the needs of Belgium and northern France? No sums of money paid by way of indemnity will serve of themselves to save them from hopeless disadvantage for years to come. Something more must be done than merely find

the money. If they had money and raw materials in abundance to-morrow they could not resume their place in the industry of the world to-morrow—the very important place they held before the flame of war swept across them. Many of their factories are razed to the ground. Much of their machinery is destroyed or has been taken away. Their people are scattered and many of their best workmen are dead. Their markets will be taken by others, if they are not in some special way assisted to rebuild their factories and replace their lost instruments of manufacture. They should not be left to the vicissitudes of the sharp competition for materials and for industrial facilities which is now to set in. I hope, therefore, that the Congress will not be unwilling, if it should become necessary, to grant to some such agency as the War Trade Board the right to establish priorities of export and supply for the benefit of these people whom we have been so happy to assist in saving from the German terror and whom we must not now thoughtlessly leave to shift for themselves in a pitiless competitive market.

For the steadyng and facilitation of our own domestic business readjustments nothing is more important than the immediate determination of the taxes that are to be levied for 1918, 1919, and 1920. As much of the burden of taxation must be lifted from business as sound methods of financing the Government will permit, and those who conduct the great essential industries of the country must be told as exactly as possible what obligations to the Government they will be expected to meet in the years immediately ahead of them. It will be of serious consequence to the country to delay removing all uncertainties in this matter a single day longer than the right processes of debate justify. It is idle to talk of successful and confident business reconstruction before those uncertainties are resolved.

If the war had continued it would have been necessary to raise at least eight billion dollars by taxation payable in the year 1919; but the war has ended and I agree with the Secretary of the Treasury that it will be safe to reduce the amount to six billions. An immediate rapid decline in the expenses of the Government is not to be looked for. Contracts made for war supplies will, indeed, be rapidly canceled and liquidated, but their immediate liquidation will make heavy drains on the Treasury for the months just ahead of us. The maintenance of our forces on the other side of the sea is still necessary. A considerable proportion of those forces must remain in Europe during the period of occupation, and those which are brought home will be transported and demobilized at heavy expense for months to come. The interest on our war debt must of course be paid and provision made for the retirement of the obligations of the Government which represent it. But these demands will of course fall much below what a continuation of military operations would have entailed and six billions should suffice to supply a sound foundation for the financial operations of the year.

I entirely concur with the Secretary of the Treasury in recommending that the two billions needed in addition to the four billions provided by existing law be obtained from the profits which have accrued and shall accrue from war contracts and distinctively war business, but that these taxes be confined to the war profits accruing in 1918, or in 1919 from business originating in war contracts. I

urge your acceptance of his recommendation that provision be made now, not subsequently, that the taxes to be paid in 1920 should be reduced from six to four billions. Any arrangements less definite than these would add elements of doubt and confusion to the critical period of industrial readjustment through which the country must now immediately pass, and which no true friend of the nation's essential business interests can afford to be responsible for creating or prolonging. Clearly determined conditions, clearly and simply charted, are indispensable to the economic revival and rapid industrial development which may confidently be expected if we act now and sweep all interrogation points away.

I take it for granted that the Congress will carry out the naval program which was undertaken before we entered the war. The Secretary of the Navy has submitted to your committees for authorization that part of the program which covers the building plans of the next three years. These plans have been prepared along the lines and in accordance with the policy which the Congress established, not under the exceptional conditions of the war, but with the intention of adhering to a definite method of development for the Navy. I earnestly recommend the uninterrupted pursuit of that policy. It would clearly be unwise for us to attempt to adjust our programs to a future world policy as yet undetermined.

The question which causes me the greatest concern is the question of the policy to be adopted towards the railroads. I frankly turn to you for counsel upon it. I have no confident judgment of my own. I do not see how any thoughtful man can have who knows anything of the complexity of the problem. It is a problem which must be studied, studied immediately, and studied without bias or prejudice. Nothing can be gained by becoming partisans of any particular plan of settlement.

It was necessary that the administration of the railways should be taken over by the Government so long as the war lasted. It would have been impossible otherwise to establish and carry through under a single direction the necessary priorities of shipment. It would have been impossible otherwise to combine maximum production at the factories and mines and farms with the maximum possible car supply to take the products to the ports and markets; impossible to route troop shipments and freight shipments without regard to the advantage or disadvantage of the roads employed; impossible to subordinate, when necessary, all questions of convenience to the public necessity; impossible to give the necessary financial support to the roads from the public treasury. But all these necessities have now been served, and the question is, what is best for the railroads and for the public in the future.

Exceptional circumstances and exceptional methods of administration were not needed to convince us that the railroads were not equal to the immense tasks of transportation imposed upon them by the rapid and continuous development of the industries of the country. We knew that already. And we knew that they were unequal to it partly because their full cooperation was rendered impossible by law and their competition made obligatory, so that it has been impossible to assign to them severally the traffic which could best be carried by their respective lines in the interest of expedition and national economy.

We may hope, I believe, for the formal conclusion of the war by treaty by the time spring has come. The twenty-one months to which the present control of the railways is limited after formal proclamation of peace shall have been made will run at the farthest, I take it for granted, only to the January of 1921. The full equipment of the railways which the federal administration had planned could not be completed within any such period. The present law does not permit the use of the revenues of the several roads for the execution of such plans except by formal contract with their directors, some of whom will consent while some will not, and therefore does not afford sufficient authority to undertake improvements upon the scale upon which it would be necessary to undertake them. Every approach to this difficult subject-matter of decision brings us face to face, therefore, with this unanswered question: What is it right that we should do with the railroads, in the interest of the public and in fairness to their owners?

Let me say at once that I have no answer ready. The only thing that is perfectly clear to me is that it is not fair either to the public or to the owners of the railroads to leave the question unanswered and that it will presently become my duty to relinquish control of the roads, even before the expiration of the statutory period, unless there should appear some clear prospect in the mean time of a legislative solution. Their release would at least produce one element of a solution, namely, certainty and a quick stimulation of private initiative.

I believe that it will be serviceable for me to set forth as explicitly as possible the alternative courses that lie open to our choice. We can simply release the roads and go back to the old conditions of private management, unrestricted competition, and multiform regulation by both state and federal authorities; or we can go to the opposite extreme and establish complete government control, accompanied, if necessary, by actual government ownership; or we can adopt an intermediate course of modified private control, under a more unified and affirmative public regulation and under such alterations of the law as will permit wasteful competition to be avoided and a considerable degree of unification of administration to be effected, as, for example, by regional corporations under which the railways of definable areas would be in effect combined in single systems.

The one conclusion that I am ready to state with confidence is that it would be a disservice alike to the country and to the owners of the railroads to return to the old conditions unmodified. Those are conditions of restraint without development. There is nothing affirmative or helpful about them. What the country chiefly needs is that all its means of transportation should be developed, its railways, its waterways, its highways, and its countryside roads. Some new element of policy, therefore, is absolutely necessary—necessary for the service of the public, necessary for the release of credit to those who are administering the railways, necessary for the protection of their security holders. The old policy may be changed much or little, but surely it can not wisely be left as it was. I hope that the Congress will have a complete and impartial study of the whole problem instituted at once and prosecuted as rapidly as possible. I

stand ready and anxious to release the roads from the present control and I must do so at a very early date if by waiting until the statutory limit of time is reached I shall be merely prolonging the period of doubt and uncertainty which is hurtful to every interest concerned.

I welcome this occasion to announce to the Congress my purpose to join in Paris the representatives of the governments with which we have been associated in the war against the Central empires for the purpose of discussing with them the main features of the treaty of peace. I realize the great inconveniences that will attend my leaving the country, particularly at this time, but the conclusion that it was my paramount duty to go has been forced upon me by considerations which I hope will seem as conclusive to you as they have seemed to me.

The Allied governments have accepted the bases of peace which I outlined to the Congress on the eighth of January last, as the Central empires also have, and very reasonably desire my personal counsel in their interpretation and application, and it is highly desirable that I should give it in order that the sincere desire of our Government to contribute without selfish purpose of any kind to settlements that will be of common benefit to all the nations concerned may be made fully manifest. The peace settlements which are now to be agreed upon are of transcendent importance both to us and to the rest of the world, and I know of no business or interest which should take precedence of them. The gallant men of our armed forces on land and sea have consciously fought for the ideals which they knew to be the ideals of their country; I have sought to express those ideals; they have accepted my statements of them as the substance of their own thought and purpose, as the associated governments have accepted them; I owe it to them to see to it, so far as in me lies, that no false or mistaken interpretation is put upon them, and no possible effort omitted to realize them. It is now my duty to play my full part in making good what they offered their life's blood to obtain. I can think of no call to service which could transcend this.

I shall be in close touch with you and with affairs on this side the water, and you will know all that I do. At my request, the French and English Governments have absolutely removed the censorship of cable news which until within a fortnight they had maintained and there is now no censorship whatever exercised at this end except upon attempted trade communications with enemy countries. It has been necessary to keep an open wire constantly available between Paris and the Department of State and another between France and the Department of War. In order that this might be done with the least possible interference with the other uses of the cables, I have temporarily taken over the control of both cables in order that they may be used as a single system. I did so at the advice of the most experienced cable officials, and I hope that the results will justify my hope that the news of the next few months may pass with the utmost freedom and with the least possible delay from each side of the sea to the other.

May I not hope, Gentlemen of the Congress, that in the delicate tasks I shall have to perform on the other side of the sea, in my efforts truly and faithfully to interpret the principles and purposes of the country we love, I may have the encouragement and the added

strength of your united support? I realize the magnitude and difficulty of the duty I am undertaking; I am poignantly aware of its grave responsibilities. I am the servant of the nation. I can have no private thought or purpose of my own in performing such an errand. I go to give the best that is in me to the common settlements which I must now assist in arriving at in conference with the other working heads of the associated governments. I shall count upon your friendly countenance and encouragement. I shall not be inaccessible. The cables and the wireless will render me available for any counsel or service you may desire of me, and I shall be happy in the thought that I am constantly in touch with the weighty matters of domestic policy with which we shall have to deal. I shall make my absence as brief as possible and shall hope to return with the happy assurance that it has been possible to translate into action the great ideals for which America has striven.

WOODROW WILSON

December 2, 1918.

LIST OF PAPERS

[The papers are listed chronologically under main headings. Unless otherwise specified, the correspondence is from or to the Secretary of State or the Department.]

GENERAL

No.	Date	From and to whom	Subject	Page
180	1917 Dec. 28	To the Minister in Norway	Abrogation of treaties, certain provisions of which conflicted with the Seamen's Act of Mar. 4, 1915. Instruction to give formal notice to the Norwegian Government of the abrogation of the treaty of July 4, 1827.	5
[Enclo- sure]	1918 Feb. 5	From the Nor- wegian Minister for Foreign Affairs to the American Minister	Same subject. Requests recon- sideration of the denunciation of the treaty of July 4, 1827.	7
679	Feb. 10	From the Min- ister in Nor- way	Same subject. Transmits note of Feb. 5 from the Norwegian Min- ister for Foreign Affairs.	7
322	Apr. 4	To the Minister in the Nether- lands. <i>Mutatis mu- tandis</i> , to Spain	Same subject. Instruction to give formal notice to the Netherland Government of the abrogation of the treaty of Jan. 19, 1839.	3
323	Apr. 4	To the Minister in the Nether- lands	Same subject. Instruction to give formal notice to the Netherland Government of the abrogation of the treaty of May 23, 1878.	4
234	May 31	To the Minister in Norway	Same subject. Instruction to ad- vise the Norwegian Govern- ment that denunciation of the treaty of July 4, 1827, is final.	8
[Enclo- sure]	June 3	The Netherland Minister of Foreign Affairs to the Ameri- can Minister	Same subject. Acknowledges re- ceipt of formal notice of denun- ciation of the treaties of Jan. 19, 1839, and May 23, 1878.	5
1375	June 10	From the Minis- ter in the Netherlands	Same subject. Transmits copies of notes addressed to the Nether- land Government and its reply of June 3.	5
	Nov. 27	To the Argen- tine Chargé. <i>Mutatis mu- tandis</i> , to all other diplo- matic repre- sentatives in Washington	The Farmers' National Congress, Dec. 3-9, Jacksonville, Fla. In- vitation to participate.	1

GENERAL—Continued

No.	Date	From and to whom	Subject	Page
	1918 Dec. 5	To the Ambassador in Brazil. <i>Mutatis mutandis, to Cuba, France, Italy, Mexico, the Netherlands, Portugal, Spain, and Switzerland</i>	Protection of American trade-marks. Instruction to bring to attention of Brazilian Government apparent violations of international trade-marks convention.	2
1930	Dec. 27	To the Ambassador in Spain (tel.)	Abrogation of treaties, certain provisions of which conflicted with the Seamen's Act of Mar. 4, 1915. Requests date which was inserted in the formal notice of abrogation of the treaty of July 3, 1902.	10
2268	Dec. 30	From the Ambassador in Spain (tel.)	Same subject. The date inserted in the formal notice of abrogation of the treaty of July 3, 1902, was May 8, 1919.	10

ARGENTINA

	1916 Sept. 23	From the President of the Central & South American Telegraph Co.	Cable-landing concessions. Requests the good offices of the Department to secure respect for the concession of 1885; encloses copy of the concession.	35
	Sept. 28	To the Chargé in Argentina (tel.)	Same subject. Instruction to reiterate to the Argentine Government the desire of the United States that the concession of 1885 be respected.	37
[Enclosure]	Oct. 4	From Aldao, Campos & del Valle to the Chargé in Argentina	Same subject. Concession of 1885 is considered legal.	38
	Oct. 6	From the Chargé in Argentina (tel.)	Same subject. Concession of 1885 to Central & South American Telegraph Co. is not menaced.	37
288	Oct. 9	From the Chargé in Argentina	Same subject. Purpose of the decree of July 19 to ascertain what funds deposited as a forfeit by concessionaires had lapsed to the Government. Encloses legal opinion regarding renewal of concession of 1885.	37
324	1917 Feb. 9	From the Ambassador in Argentina	Same subject. Has impressed upon local manager, Central & South American Telegraph Co., advisability of communicating to the Argentine Government their intentions regarding the concession of 1885.	38

ARGENTINA—Continued

No.	Date	From and to whom	Subject	Page
	1918 Mar. 23	From the Vice President of the Central & South American Telegraph Co.	Same subject. Requests assistance in securing action by the Argentine Government on company's application for a landing site.	39
	Mar. 29	To the Ambassador in Argentina (tel.)	Same subject. Instruction to request Argentine Government to reply at early convenience to application of Central & South American Telegraph Co. for a landing site.	41
	Mar. 29	To the Ambassador in Argentina (tel.)	Same subject. Instruction to request of the Argentine Government an explanation of discrimination against North American telegrams.	41
	Apr. 2	From the Ambassador in Argentina (tel.)	Same subject. Embassy has requested reply to application of Central & South American Telegraph Co. for a landing site; unwise to intervene at present in matter of discrimination.	41
	Apr. 9	From the Ambassador in Argentina (tel.)	Same subject. President will give friendly consideration to petition of Central & South American Telegraph Co. to lay cables from Buenos Aires to Montevideo.	42
	Apr. 10	From the Ambassador in Argentina (tel.)	Same subject. The Uruguayan Minister will urge upon the President of Argentina the importance of granting petition of Central & South American Telegraph Co.	43
	Apr. 12	From the Ambassador in Argentina (tel.)	Same subject. The Uruguayan Minister reports a favorable interview with the President of Argentina.	43
	June 17	From the Ambassador in Argentina (tel.)	Attitude of the United States toward Latin America. Reports comments of press on President Wilson's speech to Mexican newspaper men.	583
	Aug. 10	From the Chargé in Argentina (tel.)	Cable-landing concessions. Opinion of Attorney General of Republic is that granting of petition of Central & South American Telegraph Co. will not contravene concession to Western Telegraph Co.	43
	Oct. 28	From the Ambassador in Argentina (tel.)	Same subject. The President of Argentina issues a decree authorizing the Central & South American Telegraph Co. to lay cables between Argentina and Uruguay.	44

BELGIUM

No.	Date	From and to whom	Subject	Page
	1918 Apr. 6	From the Belgian Minister	Claims of American citizens against Mexico. Requests attitude of the United States with reference to Mexican decree of Nov. 24, 1917, establishing a claims commission.	807
	Apr. 9	To the Belgian Minister	Same subject. Further information has been requested from the Mexican Government with reference decree of Nov. 24, 1917; no definite position can be taken until information is received.	807

BRAZIL

878	1917 Mar. 20	From the Chargé in Brazil	Cable-landing concessions. Legal impediments to concession to Central & South American Telegraph Co., have been removed. Brazilian Government has agreed to a rate of the Western Telegraph Co. which is discriminatory against American interests.	45
	Mar. 22	To the Chargé in Brazil (tel.)	Same subject. Transmits note to the Brazilian Government regarding rate discrimination against telegrams between the United States and Brazil.	46
898	Apr. 10	From the Chargé in Brazil	Same subject. The Minister of Foreign Affairs has submitted the U. S. note regarding rate discrimination to the Minister of Public Works.	47
	Apr. 14	To the Chargé in Brazil (tel.)	Same subject. Requests cable report on progress in solution of difficulty regarding rate discrimination.	47
	July 13	From the President of the Western Union Telegraph Co.	Same subject. Requests good offices of the Department in securing arrangement with Government of Brazil for direct communication by cable with the United States.	47
	July 21	To the President of the Western Union Telegraph Co.	Same subject. The Department is glad to see American interests advanced in other countries by American corporations.	48
	Aug. 3	To the Ambassador in Brazil (tel.)	Same subject. Instruction to give proper assistance to the representative of the Western Union Telegraph Co.	48
	Aug. 13	From the Ambassador in Brazil (tel.)	Same subject. Concession has been signed giving cable-landing rights to Central & South American Telegraph Co.	48

BRAZIL—Continued

No.	Date	From and to whom	Subject	Page
998	1917 Aug. 16	From the Ambassador in Brazil	Same subject. Transmits memorandum of negotiations regarding establishment of all-American cable communication between the United States and Brazil.	49
	Oct. 25	From the Ambassador in Brazil (tel.)	Same subject. Executive decree has been signed authorizing Western Telegraph Co., to lay cables between Rio de Janeiro and Ascension Island and between Para and Barbados.	50
	Nov. 7	From the Vice President of the Central & South American Telegraph Co.	Same subject. Discusses importance of the further concessions to the Western Telegraph Co., and need for American-owned cables to Brazil; contract between his company and Brazil has been signed.	50
1047	Nov. 8	From the Ambassador in Brazil	Same subject. Transmits decree permitting the Central & South American Telegraph Co. to land cables at Rio de Janeiro and Santos.	52
1066	Nov. 26	From the Ambassador in Brazil	Same subject. Transmits decree permitting Western Telegraph Co. to lay cables between Rio de Janeiro and Ascension Island and between Belem and Barbados; refers to protest of the French Cable Co.	57
1088	Dec. 12	From the Ambassador in Brazil	Same subject. Western Union Telegraph Co. has applied for cable-landing concessions; Central & South American Telegraph Co. will request a further concession. Encloses certain clauses of concessions to Western Telegraph Co. and French Cable Co.	62
1119	1918 Jan. 14	To the Ambassador in Brazil (tel.)	Same subject. (Mr. Nelson) O'Shaughnessy is authorized by Western Union Telegraph Co. to negotiate cable concession in his own name; Brazilian Government to be so informed.	64
	Jan. 19	From the Ambassador in Brazil	Authorization to foreign vessels to engage in coastwise traffic in Brazilian waters. Reports publication of circular from the Minister of Finance, granting to foreign vessels the privilege of engaging in coastwise traffic between Brazilian ports.	81
1144	Jan. 23	From the Consul General at Rio de Janeiro	Cable-landing concessions. Quotes amendment of decree No. 12688 granting cable-landing concessions to the Western Telegraph Co.	64

BRAZIL—Continued

No.	Date	From and to whom	Subject	Page
1249	1918 Mar. 25	From the Vice Consul in charge at Rio de Janeiro	Same subject. Quotes order granting to Mr. Nelson O'Shaughnessy, representative of the Western Union Telegraph Co., the right to lay certain cables.	64
	Apr. 19	To the Ambassador in Brazil (tel.)	Same subject. Mr. Frank Carney is authorized by Central & South American Telegraph Co. to renew application for cable-laying concession in his own name; Minister of Foreign Affairs to be so informed.	65
1238	May 14	From the Ambassador in Brazil	Message of the President of Brazil to the National Congress. Comments on message and encloses text.	78
1260	May 17	From the Ambassador in Brazil	Cable-landing concessions. Encloses concession granted to the Western Union Telegraph Co.; comments on failure to provide for landing of cable at or near Santos.	65
	May 31	From the President of the Western Union Telegraph Co.	Same subject. Brazilian Government has refused to amend cable concession, making it unacceptable to the company.	70
	June 5	To the Ambassador in Brazil (tel.)	Same subject. Instruction to aid representative of Western Union Telegraph Co. in securing amendments to concession.	71
	July 12	To the Ambassador in Brazil (tel.)	Same subject. Transmits authorization of Western Union Telegraph Co. to its representative to sign contract.	71
	Aug. 2	To the Ambassador in Brazil (tel.)	Same subject. Denies truth of report that the United States will take over all cable companies on July 31.	72
	Aug. 13	From the Ambassador in Brazil	Same subject. Brazilian Government impotent to oblige Western Telegraph Co. to cease discrimination against American telegrams.	72
491	Sept. 27	To the Ambassador in Brazil	Same subject. Has discussed rate discrimination with Brazilian Ambassador, who is to become Minister of Foreign Affairs. Reiterates instruction to assist American companies in any way proper.	73
	Nov. 30	From the Vice Consul in charge at Rio de Janeiro	Same subject. Quotes articles of concession to Mr. Frank Carney (representative of Central & South American Telegraph Co.) for a cable between Rio de Janeiro and Cuba.	74
	Dec. 5	To the Ambassador in Brazil	Protection of American trade-marks. Instruction to bring to the attention of the Brazilian Government apparent violations of the international trade-marks convention.	2

CHILE

No.	Date	From and to whom	Subject	Page
	1918 June 14	From the Charge in Chile (tel.)	Attitude of the United States toward Latin America. Reports comments of press on President Wilson's speech to Mexican newspaper men.	581

CHINA

155	1917 Oct. 5	From the Consul at Tsingtao	Institution of Japanese civil administration in the Leased Territory of Kiaochow. Civil administration substituted for military administration on Oct. 1; discusses situation.	214
169	Nov. 30	From the Consul at Tsingtao	Same subject. Chinese oppose civil administration; Government presents formal protests; fear Japanese domination of Shantung; Japanese hold Shantung Railway and Leased Territory as conquered areas. Transmits memorandum on department of civil administration.	215
1797	Dec. 15	From the Minister in China	Attitude of the United States towards political relationships in the Far East. Refers to statement of policies in telegram of July 10 and requests instruction if policies have changed.	213
	Dec. 28	To the Ambassador in Japan (tel.)	Institution of Japanese civil administration in the Leased Territory of Kiaochow. Instruction to ascertain facts from Japanese Government regarding reported aggression on China's sovereignty.	221
[Quoted in tel.]	Dec. 31	From the British Foreign Office to the Ameri- can Ambassador	Loan negotiations: Currency reorganization and loan and currency reform. Expresses willingness to participate in international loan if the American group will advance share of British group at present time.	137
8116	1918 Jan. 1	From the Ambas- sador in Great Britain (tel.)	Same subject: Transmits note of Dec. 31 from the Foreign Office.	137
	Jan. 5	To the Minister in China (tel.)	Same subject: Requests telegraphic reply regarding correctness of report that Japanese group has decided to defer proposed advance to China.	138
	Jan. 7	From the Minis- ter in China (tel.)	Same subject. Japanese loan has been signed.	139
	Jan. 8	To the Minister in China (tel.)	Same subject. Requests amount of Japanese advance.	139
3050	Jan. 9	To the Ambassa- dor in France (tel.)	Same subject. Legation at Peking advises Japanese loan agreement signed Jan. 6.	139

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No.	Date	From and to whom	Subject	Page
6202	1918 Jan. 9	To the Ambassador in Great Britain (tel.)	Same subject. Legation at Peking advises Japanese loan agreement signed Jan. 6.	139
	Jan. 10	From the Minister in China (tel.)	Same subject. Amount of Japanese advance is 10,000,000 yen.	139
[Quoted in tel.]	Jan. 12	From the British Foreign Office to the American Ambassador	Same subject. Reiterates willingness to participate in international loan on basis of note of Dec. 31.	140
8258	Jan. 14	From the Ambassador in Great Britain (tel.)	Same subject. Transmits note of Jan. 12 from the Foreign Office.	140
	Jan. 20	From the Ambassador in Japan (tel.)	Institution of Japanese civil administration in the Leased Territory of Kiaochow. Japanese Vice Minister for Foreign Affairs states that civil administration under jurisdiction of Ministry of War replaces military control, but differs in meaning from Chinese and English interpretation of term.	222
	Jan. 21	From the Secretary of the Treasury	Loan negotiations: Currency reorganization and loan and currency reform. Government lacks authority to make currency loans; advisable for private group to participate at present time; immediate decision apparently not required.	140
3096	Jan. 25	From the Ambassador in France (tel.)	Same subject. Minister of Finance approves of participation in loan by French group, but dependent upon cooperation of British group.	141
747	Jan. 29	To the Minister in China	Attitude of the United States towards political relationships in the Far East. No change in policies; merely defined more clearly by Lansing-Ishii agreement.	214
	Feb. 5	From the French Ambassador	Railway concessions: Proposed elimination of German interests from the Hukuang Railway enterprise. Suggests recasting of agreements; asks concurrence and participation of American group.	199
1886	Feb. 7	From the Minister in China	Loan negotiations: Currency reorganization and loan and currency reform. Reports probable appointment of Baron Sakatani as adviser to Chinese Government on currency reform; urges completion of arrangements for American participation in loan.	141
	Feb. 11	From the Minister in China (tel.)	Political affairs. Summarizes situation. Urges attention be given China.	83

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No.	Date	From and to whom	Subject	Page
1878	1918 Feb. 11	From the Minister in China	Loan negotiations: Currency reorganization and loan and currency reform. Transmits copies of agreement between the Chinese Government and the Japanese Specie Bank for a second advance of 10,000,000 yen, and statement of advances by the Bank of China.	142
1905	Feb. 12	From the Minister in China	Political affairs. Summary of recent developments.	84
	Feb. 15	From the French Ambassador	Loan negotiations: Currency reorganization and loan and currency reform. Refers to proposed participation of British group in loan. French group disposed to accept arrangement with reservation.	142
2069	Feb. 15	To the French Ambassador	Railway concessions: Proposed elimination of German interests from the Hukuang Railway enterprise. Suggestions of the 5th inst. will have careful consideration.	200
2074	Feb. 16	To the French Ambassador	Loan negotiations: Currency reorganization and loan and currency reform. Refers to former discussion of proposed advance to China and states no action has been taken toward organization of American group pending decision to participate by French and British groups.	143
2085	Mar. 2	To the French Ambassador	Same subject. Discussion of British, French and U. S. participation in loan to China.	144
	Mar. 3	From the Chargé in China (tel.)	Political affairs. Reported that Chang Tso-lin will attempt restoration of Emperor.	88
	Mar. 7	From the Chargé in China (tel.)	Same subject. Chang Tso-lin's purpose not to restore Emperor but to oust President.	88
	Mar. 15	From the Ambassador in Japan (tel.)	Loan negotiations: Currency reorganization and loan and currency reform. Baron Sakatani contemplates visit to China; commented on financial situation in an interview.	145
	Mar. 16	From the Chargé in China (tel.)	Political affairs. President Feng determined to resign; civil war likely if plans of military clique are carried out.	89
	Apr. 8	From the Minister in China (tel.)	Loan negotiations: Currency reorganization and loan and currency reform. Application has been made by various groups for an extension of time on the currency loan option.	145
	Apr. 9	To the Minister in China (tel.)	Same subject. Decision in loan matter deferred; instruction to inform Chinese Government that Department trusts option will be extended.	145

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No.	Date	From and to whom	Subject	Page
9411	1918 Apr. 9	From the Ambassador in Great Britain (tel.)	Same subject. Foreign Office inquires as to progress in organizing American group and regarding its scope when organized.	145
7231	Apr. 11	To the Ambassador in Great Britain (tel.)	Same subject. Action on loan situation deferred pending developments; doubtful whether group will be organized in near future.	146
1996	Apr. 12	From the Minister in China	Loan negotiations: Other loans. Transmits list of loans made to the Chinese Government during 1917 and during January 1918.	166
	Apr. 13	From the Minister in China (tel.)	Loan negotiations: Currency reorganization and loan and currency reform. Option under currency loan agreement extended six months.	146
	Apr. 27	From the Minister in China (tel.)	Same subject. Japanese Minister urging appointment of Baron Sakatani as financial adviser; France may consent; important that American representative be appointed promptly.	146
2018	Apr. 30	From the Minister in China	Political affairs. Report on the general situation in China during the first quarter of 1918.	89
2025	May 1	From the Minister in China	Loan negotiations: Other loans. Reports opinion of Chinese financiers regarding the two new domestic loans.	169
[Enclosure]	May 16	From the Consul at Changsha to the Minister in China	Political affairs. Unwarranted destruction and looting by soldiers at Liling. Encloses report of Dr. B. E. Niebel of May 15.	99
63	May 24	From the Chinese Minister	Protection of Chinese interests in the Dominican Republic and Haiti by American diplomatic and consular officers. Requests that consent of Governments of Haiti and Dominican Republic be secured for the United States to take charge of Chinese interests and issue passports to Chinese citizens in those countries.	397
[Enclosure]	May 29	Joint note from the American, British, and Japanese Ministers in China to the Chinese Minister for Foreign Affairs	Political affairs. Emphasizes individual responsibility of commanding officers to protect foreigners.	97
2079	June 5	From the Minister in China	Same subject. Transmits copy of measure for organization of the Southern Military Government, and copy of letter of resignation of Dr. Sun Yat-sen as generalissimo of the Military Government.	94

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No.	Date	From and to whom	Subject	Page
2082	1918 June 5	From the Minister in China	Same subject. Transmits copy of joint note sent May 29 by British, American, and Japanese Ministers to the Central Government, emphasizing individual responsibility of commanding officers to protect foreigners.	96
2083	June 5	From the Minister in China	Same subject. Comments upon cruel behavior of both Northern and Southern troops; transmits despatch of May 16 from the Consul at Changsha, describing unwarranted destruction and looting by soldiers at Liling and enclosing a report by Dr. B. E. Niebel of May 15.	98
2092	June 6	From the Minister in China	Exchange of notes and conclusion of agreements between the Governments of China and Japan relating to military cooperation. Transmits official text of notes.	222
66	June 15	From the Chinese Minister	Protection of Chinese interests in the Dominican Republic and Haiti by American diplomatic and consular officers. Requests confirmation of understanding that present privilege of transit through the United States to China will not be affected by new instructions.	398
	June 20	To President Wilson	International financial consortium. Proposes formation of American group composed of private bankers for making loan to China; outlines three projects which offer opportunities for such a group; asks if plan meets with approval.	169
	June 21	From President Wilson	Same subject. Approves of organization of American group, but specifies precautions to protect the Chinese Government against unfair advantage.	171
	June 22	To certain American bankers	Same subject. Requests the representatives of certain banks to meet with him to discuss organization of financial consortium and to formulate a definite plan of operation.	172
2140	June 29	From the Minister in China	Political affairs. Report on the general situation in China during the second quarter of 1918.	101
2142	June 29	From the Minister in China	Railway concessions: Protest of Great Britain against the Siems-Carey & Co. contract. Transmits copy of note of Ministry of Foreign Affairs to British Government, in answer to protest against proposed construction by an American corporation of railways in Hupeh and Hunan; Chinese Government holds the former agreement on railways no longer in force.	200

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No.	Date	From and to whom	Subject	Page
	1918 July 8	From certain American bankers	International financial consortium. Suggest forming four-power group, and that American group be representative of whole country; also that Government make public its interest in loan. Propose conditions of membership in four-power group.	172
	July 9	To certain American bankers	Same subject. Concurs in formation of four-power group; Government will not approve of any loans which would impair sovereign rights of China; will formally state at time of issue that Government suggested making of loan.	174
150	July 10	To the British Ambassador. <i>Mutatis mutandis</i> , to the French and Japanese Ambassadors	Same subject. Decision to take up matter of loan to China; bankers' letter of July 8 and Department's reply enclosed.	175
75	July 10	To the Chinese Minister	Same subject. Transmits copy of letter from certain bankers, July 8, and Department's reply, July 9, relative to the formation of international consortium.	176
	July 10	To the Minister in China (tel.)	Opium and morphine traffic. Instruction to investigate report that Chinese Government will purchase opium stocks of Shanghai combine, and to express regret of the U. S. Government, if true.	209
	July 10	From the Minister in China (tel.)	Same subject. Suggests pointedly calling attention of Chinese Government to danger of jeopardizing opium reform under Hague draft treaty.	210
	July 11	To the Ambassador in Great Britain (tel.). <i>Mutatis mutandis</i> , to France, Japan, and China	International financial consortium. Movement to form four-power consortium to make loan to Chinese Government; relinquishment of options on loans is proposed condition of membership; sovereignty of China must not be impaired.	176
2148	July 13	From the Chargé in China	Railway concessions: Concession to the Japanese Industrial Development Bank for a railway from Kirin to Hueining. Transmits copy of contract for loan; comments upon terms.	201
844	July 15	To the Chargé in China. <i>Mutatis mutandis</i> , to Great Britain, France, and Japan	International financial consortium. Transmits copy of letter from bankers in New York and Chicago dated July 8, and Department's answer of July 9, with reference to proposed consortium.	177

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No.	Date	From and to whom	Subject	Page
	1918 July 15	From the American group	Same subject. Assurances contained in Department's July 9 satisfactory; to expedite matter negotiations should take place in Washington or New York.	177
	July 16	From the American group	Same subject. Transmits list of bankers it is desirable to include in the American group; will communicate with them upon approval of list by Department.	178
	July 17	From the Japanese Ambassador	Same subject. Has transmitted to Japanese Government the Department's correspondence regarding loan to China.	179
804	July 20	From the British Ambassador	Same subject. Inquires if it is the intention of the American Government to renew the original six-power group in form of four-power group, and whether loans will be administrative only, or also industrial.	179
	July 20	From the Chargé in China (tel.)	Opium and morphine traffic. Opium purchased by the Chinese Government will be used for medicinal purposes only.	210
	July 23	To the Ambassador in Japan (tel.)	International financial consortium. Instruction to communicate substance of Department's telegram of July 11 to Foreign Office and say that the U. S. Government would be pleased to know that the Japanese Government agrees to cooperate.	180
	July 25	To the American group	Same subject. Department approves list of banking and trust companies submitted in communication of July 16.	180
	July 26	To the British Ambassador	Same subject. It is the expectation of the Department that industrial as well as administrative loans will be made.	180
[Enclosure]	July 27	From the Chargé in China to the Chinese Minister for Foreign Affairs	Loan negotiations: Kirin and Heilungkiang forestry and mines loan. Requests information as to accuracy of translation of Arts. 8 and 9 of loan agreement.	163
2160	July 27	From the Chargé in China	Same subject. Agreement concluded between China and Japanese banks for loan secured upon forests and gold mines. Encloses copy of note of July 27 to Minister for Foreign Affairs.	162
	July 30	To the Secretary of the Treasury	International financial consortium. Transmits for information of the Treasury Department, correspondence between the Department and American bankers.	181
512	July 30	To the Ambassador in Great Britain (tel.). The same to France and Japan	Same subject. Summary of statement given to the press concerning formation of American group and its agreement with the Department.	181

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No.	Date	From and to whom	Subject	Page
	1918 July 30	To the Chargé in China (tel.)	Same subject. Transmits statement given to the press concerning formation of American group and its agreement with the Department.	182
	July 31	From the American group	Same subject. A managing committee has been appointed and the group is ready to enter upon active discussions. Suggests the United States as headquarters of four-power group.	183
	July 31	To the Chargé in China (tel.)	Same subject. Instruction to obtain information regarding amount and purpose of loan desired by China, and security to be offered.	184
	Aug. 2	To the American group	Same subject. The Department has not yet heard from all the interested governments; suggestion to make the United States headquarters for consortium will be considered at proper time.	184
2172	Aug. 3	From the Chargé in China	Loan negotiations: Other loans. Transmits contract concluded Nov. 22, 1917, for loan by Japanese syndicate to Chinese Government for flood relief.	169
	Aug. 6	From the American group	International financial consortium. Transmits copy of agreement which is being signed by members of the American group.	184
	Aug. 6	From the Chargé in China (tel.)	Same subject. Observations and suggestions concerning consortium.	186
	Aug. 8	To the American group	Same subject. No immediate prospect that Department can furnish the group with information to enable it to begin negotiations.	187
	Aug. 9	From the Vice President of the American International Corp.	Railway concessions: Temporary cessation of railway surveys under the Siems-Carey & Co. contract. Transmits correspondence from the Siems-Carey Railway & Canal Co. relative to cessation of operations because of disturbed conditions.	204
	Aug. 10	To the Chargé in China (tel.)	International financial consortium. Department concurs with views expressed in despatch of Aug. 6; aims to create consortium to control both administrative and industrial loans.	188
2194	Aug. 13	From the Chargé in China	Political affairs. Reports that British and American missionaries are being advised not to return to interior of Hunan Province.	108
2197	Aug. 13	From the Chargé in China	Loan negotiations: Currency reorganization and loan and currency reform. Transmits regulations governing issue of gold currency notes; discusses secret loan agreement between Mr. Ts'ao and Mr. Nishihara.	147

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No.	Date	From and to whom	Subject	Page
[Enclosure]	1918 Aug. 13	From the Chargé in China to the Minister for Foreign Affairs	Loan negotiations: Kirin and Heilungkiang forestry and mines loan. Requests text of actual loan agreement with annexed notes.	165
80	Aug. 14	To the Chinese Minister	Protection of Chinese interests in the Dominican Republic and Haiti by American diplomatic and consular officers. Department of Labor has made no change in the regulations governing transit of Chinese across the United States.	400
[Enclosure]	Aug. 14	From the British Secretary of State for Foreign Affairs to the American Ambassador	International financial consortium. Assents in principle to the proposal to constitute a new four-power group.	189
9710	Aug. 16	From the Ambassador in Great Britain	Same subject. Transmits British note of Aug. 14.	188
	Aug. 17	From the Chargé in China (tel.)	Loan negotiations: Currency reorganization and loan and currency reform. Banks holding currency loan option make joint protest against new regulations. Awaits authorization to make independent protest.	150
	Aug. 21	To the Chargé in China (tel.)	Same subject. Instruction to make protest should proposed regulations be enforced.	151
2205	Aug. 21	From the Chargé in China	Same subject. Transmits agreement between the Yokohama Specie Bank and the Chinese Government for the renewal of Chinese Government Treasury bills.	151
[Enclosure]	Aug. 21	From the Chinese Ministry for Foreign Affairs to the Chargé in China	Loan negotiations: Kirin and Heilungkiang forestry and mines loan. Accurate translation and interpretation of Arts. 8 and 9 of loan agreement.	164
883	Aug. 21	To the Ambassador in Great Britain (tel.) <i>Mutatis mutandis</i> , to France	International financial consortium. Expresses hope that the British Government will be disposed to cooperate in the proposed consortium.	191
	Aug. 22	From the Chargé in China (tel.)	Loan negotiations. Kirin and Heilungkiang forestry and mines loan. Reports interpretation of Ministry of Finance of Arts. 8 and 9 of agreement; has requested autograph transcript of loan agreement.	163
1280	Aug. 22	From the Ambassador in Great Britain (tel.)	International financial consortium. British Government is disposed to assent in principle to the proposed new four-power group.	191

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No.	Date	From and to whom	Subject	Page
	1918 Aug. 26	From the Ambassador in Japan (tel.)	Same subject. Transmits memorandum from the Foreign Office requesting further information concerning intentions of the United States.	191
[Quoted in tel.]	Aug. 26 [?]	From the Japanese Foreign Office to the American Ambassador	Same subject. Requests further information concerning the intentions of the United States.	191
1056	Aug. 28	To the Ambassador in Great Britain (tel.)	Opium and morphine traffic. Instruction to inquire whether Foreign Office contemplates any measure to prevent the revival of opium traffic in China.	210
	Aug. 29	From the Chargé in China (tel.)	Loan negotiations: Currency reorganization and loan and currency reform. Transmits regulations for Chinese trading company. Suggests a statement to Foreign Office protesting possible monopolistic powers of company in violation of treaty provisions.	153
1616	Sept. 4	From the Ambassador in Great Britain (tel.)	Opium and morphine traffic. The British Government disapproves of the purchase by the Chinese Government of opium stocks and hopes it may be persuaded to abandon the transaction.	211
74	Sept. 5	From the Chinese Minister	Political affairs. Announces election of Hsü Shih-ch'ang as President of the Republic of China.	109
	Sept. 6	From the Chargé in China (tel.)	Loan negotiations: Currency reorganization and loan and currency reform. Minister of Finance replies to banks' protest; whereupon interested legations protest by identic notes. Will reserve action under authorization of Aug. 21 until expiration of option under currency loan agreement.	154
	Sept. 7	To the Chargé in China (tel.)	Same subject. Approves suggestion to notify Chinese Government of attitude toward organization of trading company having monopolistic powers.	154
	Sept. 7	To the Chargé in China (tel.)	Opium and morphine traffic. Instruction to make earnest representations against transaction between Chinese Government and opium combine, and to cooperate with British colleague.	211
2232	Sept. 9	From the Chargé in China	Political affairs. Reports little active fighting, prevalence of brigandage, and general state of uncertainty.	109

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No.	Date	From and to whom	Subject	Page
2228	1918 Sept. 9	From the Chargé in China	Loan negotiations: Currency reorganization and loan and currency reform. Transmits copy of banks' joint protest against new regulations and organization of currency bureau. Arrangements regarding Japanese loan of 80,000,000 yen kept secret. Suggests reserving the reiteration of right to be considered in connection with plans for currency reform.	155
	Sept. 9	To the Chargé in China (tel.)	Same subject. Inquires whether 80,000,000 yen loan has been definitely postponed.	157
2238	Sept. 10	From the Chargé in China	Loan negotiations: Kirin and Heilungkiang forestry and mines loan. Transmits reply of Foreign Office containing accurate translation and interpretation of Arts. 8 and 9 of loan agreement, and copy of note to Foreign Office asking for text of actual agreement with annexed notes.	164
	Sept. 10	From the French Ambassador	International financial consortium. States case for retaining Russia in new consortium.	192
	Sept. 13	From the Chargé in China (tel.)	Loan negotiations: Currency reorganization and loan and currency reform. Minister of Finance denies conclusion of loan; actual situation in doubt.	158
1347	Sept. 13	To the Ambassador in Great Britain (tel.)	Opium and morphine traffic. Instruction to inform the Foreign Office that the U. S. Government will make representations to the Chinese Government, and to express the hope that the British Government will do likewise.	212
	Sept. 14	To the Chinese Minister	Political affairs. Acknowledges his note of 5th instant announcing the election of the new President.	109
	Sept. 17	From the Chargé in China (tel.)	Same subject. President-elect Hsü seeking reconciliation between factions; opportunity for Allied Governments to assist.	110
	Sept. 21	From the Chargé in China (tel.)	Opium and morphine traffic. Has addressed separate protest to the Foreign Office against opium transaction.	212
	Sept. 24	To the Chargé in China (tel.)	Loan negotiations: Kirin and Heilungkiang forestry and mines loan. Instruction to make formal protest if authentic copy of agreement and exchange of notes agrees with texts in despatch of July 27.	165
2246	Sept. 24	From the Ambassador in Great Britain (tel.)	Opium and morphine traffic. The British Minister at Peking has been instructed to protest strongly against the recent opium transaction.	212

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No.	Date	From and to whom	Subject	Page
	1918 Oct. 5	From the Chargé in China (tel.)	Loan negotiations: Currency reorganization and loan and currency reform. Minister of Finance replies to legations' joint protest; consortium bankers will ask for extension of time on their options. No initiative possible by United States; will reserve protest.	158
	Oct. 8	From the Chargé in China (tel.)	Same subject. Reports that notes of consortium bankers and their legations to Ministry of Finance have precipitated a crisis; as authorized, will protest to Government.	158
[Enclosure]	Oct. 8	From the Chargé in China to the Chinese Minister for Foreign Affairs	Same subject. Reiterates right of U. S. Government to be consulted regarding any project of currency reform.	159
	Oct. 8	From the Chargé in China (tel.)	Loan negotiations: Kirin and Heilungkiang forestry and mines loan. Minister of Finance declines to communicate text of agreement and notes.	165
2249	Oct. 8	To the French Ambassador. The same to the British and Japanese representatives	International financial consortium. Restates attitude of the U. S. Government; encloses memorandum in reply to questions raised by the other interested governments.	193
82	Oct. 8	To the Chinese Minister	Same subject. Transmits copy of identic note and memorandum of even date handed to representatives of Great Britain, France, and Japan.	196
	Oct. 8	To the Ambassador in Japan (tel.) <i>Mutatis mutandis</i> , to Great Britain, China, and France	Same subject. <i>Résumé</i> of note and memorandum of even date to the representatives of France, Great Britain, Japan, and China.	196
	Oct. 10	From President Wilson to President Hsü Shih-ch'ang (tel.)	Political affairs. Congratulates him upon accession to Presidency and suggests moment is auspicious for factions to adjust differences.	111
	Oct. 10	To the Chargé in China (tel.)	Loan negotiations: Kirin and Heilungkiang forestry and mines loan. Instruction to inquire of Chinese Government whether American citizens will be allowed to cooperate in Kirin forestry agreement and its privileges.	165
[Enclosure]	Oct. 12	From Dr. Wu Ting-fang to the Dean of the Diplomatic Corps in China	Political affairs. Protests election of President Hsü Shih-ch'ang as illegal and announces that the functions of President will be performed by the Cabinet of the "Military Government."	117

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No.	Date	From and to whom	Subject	Page
[Enclosure]	1918 Oct. 13	From President Hsü Shih-ch'ang to President Wilson (tel.)	Same subject. Thanks President Wilson for his telegram of congratulations; promises continued support of Allied cause; will seek Chinese unity.	111
	Oct. 19	From the Minister in China (tel.)	Same subject. Describes serious situation in Peking; enumerates necessary steps for improvement.	112
	Oct. 23	From the Minister in China to the Chinese Minister for Foreign Affairs	Loan negotiations: Currency reorganization and loan and currency reform. Expresses friendly interest in matter of currency reform and emphasizes right of U. S. Government to be consulted.	160
	2287 Oct. 23	From the Minister in China	Same subject. Transmits copies of regulations promulgated Aug. 10, and the Legation's notes to the Foreign Office; discusses attitude of bank representatives and their ministers.	159
	Undated [Rec'd Oct. 25]	From the Japanese Embassy	Political affairs. Proposes that Japan, Great Britain, France, Italy, and the United States make joint representation to leaders in North and South China, urging importance of reconciliation.	114
	Oct. 26	From the Minister in China (tel.)	Same subject. Peace sentiment growing; President Hsü issues peace mandate in which he refers to President Wilson's plea for Chinese unity.	115
	Oct. 30	From the Minister in China (tel.)	Same subject. President encouraged by favorable reception of peace proposals; requests assurance of financial assistance if he should order cessation of hostilities.	116
[Enclosure]	Undated [Rec'd Oct. 30]	From the Japanese Embassy	Railway concessions. Substance of agreement between China and Japan for the construction of railways by Japan in Manchuria, Mongolia, and Shantung.	205
	Nov. 5	From the Chinese Acting Minister of Finance to the representatives of the British, French, Russian, and Japanese groups	Loan negotiations: Currency reorganization and loan and currency reform. Extends currency loan option six months.	161
	2317 Nov. 8	From the Minister in China	Same subject. Group representatives urge United States participation in currency loan negotiation. Encloses copy of note of Nov. 5 from the acting Minister of Finance to group representatives.	161

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No.	Date	From and to whom	Subject	Page
2319	1918 Nov. 8	From the Minister in China	Political affairs. Transmits copy of telegram from Dr. Wu Ting-fang protesting election of President Hsü Shih-ch'ang as illegal and announcing that the functions of President will be performed by the Cabinet of the "Military Government."	116
2321	Nov. 8	From the Minister in China	Same subject. Discusses President Hsü's policy and encloses his mandate advocating peace.	117
	Nov. 8	From the Minister in China (tel.)	Loan negotiations: Currency reorganization and loan and currency reform. Extension of currency loan option granted. Urgent that American representative be sent at once to participate in negotiations.	160
	Nov. 16	To the Japanese Embassy	Political affairs. Concurs with views of the Japanese Government regarding wisdom of joint representations to China and suggests offering financial assistance to reunited Government.	120
	Nov. 16	To the Minister in China (tel.)	Same subject. Quotes memorandum of Nov. 16 to the Japanese Embassy. Instruction to submit text of any agreement to Department before final action.	120
	Nov. 18	From the Minister in China (tel.)	Same subject. Upon assurance of Southern military leaders of willingness to cooperate, President issued mandate directing cessation of hostilities and withdrawal of Northern forces. Minister has informed Consulate General at Canton.	120
	Nov. 25	From the Japanese Embassy	Same subject. Japanese Government concurs with the Department's suggestion concerning financial assistance to Chinese Government and has so instructed its representative in Peking.	121
	Nov. 25	From the Minister in China (tel.)	Opium and morphine traffic. Mandate issued by the President of China, ordering destruction of opium purchased from Shanghai combine.	213
2348	Nov. 29	From the Minister in China	Political affairs. Transmits report on the general situation in China during the third quarter of 1918.	121
	Nov. 30	To the Minister in China (tel.)	Opium and morphine traffic. Instruction to express to the Chinese Government Department's appreciation of decision to destroy opium stocks at Shanghai.	213
2354	Dec. 2	From the Minister in China	Political affairs. Transmits copy of joint note which was adopted and presented to the President and the Southern leaders, expressing a hope for reconciliation.	134

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No.	Date	From and to whom	Subject	Page
2379	1918 Dec. 3	From the Minister in China	Railway concessions: Protest of Great Britain against the Siems-Carey & Co. contract. Transmits translations of note addressed to the Chinese Ministry for Foreign Affairs by the British Minister and the reply thereto; Legation agrees with Chinese position.	205
	Dec. 5	To the Minister in China (tel.)	Political affairs. Japanese not disposed to sanction loan to Peking authorities for disbandment of troops. Instructions to discourage any proposal that U. S. bankers make such a loan.	135
	Dec. 10	From the Minister in China (tel.)	International financial consortium. Comments on conditions in China, recites the urgent needs of the Chinese Government, and requests information as to the status of the financial negotiations.	197
	Dec. 18	To the Minister in China (tel.)	Same subject. Preparations for American participation completed; awaits agreement of other governments.	198
	Dec. 19	From the Ambassador in Japan (tel.)	Loan negotiations: Currency reorganization and loan and currency reform. Baron Sakatani has been appointed as financial adviser to the Chinese Government, and makes statement of his plans.	162
2424	Dec. 31	From the Minister in China	Political affairs. Discusses progress of reconciliation in China; difficulties arising, but outlook encouraging.	135
[Enclosure]	Undated [with despatch of Dec. 31]	From the Canton Parliament to the U. S. Congress	Same subject. Statement of aims of Constitutionalists.	136
39	Dec. 31	From the Consul at Canton to the Minister in China	Same subject. Transmits copy of telegram from Parliament at Canton to the U. S. Congress; some agitation for intervention by the United States, but arbitration is more generally favored.	136

COLOMBIA

633	1918 June 20	From the Chargé in Colombia	Message of President José Vicente Concha to the National Congress. Reports convening of special session of Congress necessitated by economic crisis; quotes extracts from the President's message.	227
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COSTA RICA

No.	Date	From and to whom	Subject	Page
	1917 Dec. 31	From the Minister in Panama (tel.)	Political affairs. Volio discouraged; still planning to invade Costa Rica from Nicaragua, if the United States does not object; believes Tinoco will never yield voluntarily.	229
	1918 Jan. 3	From the Minister in Panama (tel.)	Same subject. Reports intention of Volio party to proceed to Nicaragua on S. S. <i>Peru</i> , and requests instruction whether to permit departure.	229
	Jan. 4	To the Chargé in Costa Rica (tel.)	Same subject. Repeats instruction to Legation, Panama, denouncing Volio's activities and emphasizing Panama's responsibility to prevent armed expedition against neighboring republics. Quotes reply of Dec. 31. Cables withheld show Volio in touch with Quesada in New York.	230
	Jan. 5	To the Minister in Panama (tel.)	Same subject. Inadvisable to permit Volio party to proceed to Nicaragua.	230
	Jan. 10	From the Chargé in Costa Rica (tel.)	Same subject. Purpose of Volio's movement is not restoration of Gonzales; dry season is opportune for movement against Tinoco whose régime approaches that of Nicaragua under Zelaya. Guell in hiding.	231
	Jan. 13	From the Minister in Panama (tel.)	Same subject. Volio promises to abide by will of the United States; report received that Tinoco would declare war on Germany in return for U. S. recognition and would withdraw in favor of man acceptable to Volio.	231
	Jan. 13	From the Chargé in Costa Rica (tel.)	Same subject. Reported that relief ship <i>Izabel</i> will return from Guatemala with munitions for Tinoco.	231
	Jan. 17	From the Chargé in Guatemala (tel.)	Same subject. Hasty examination failed to confirm report that <i>Izabel</i> carried munitions from Guatemala to Costa Rica.	232
	Feb. 3	From the Chargé in Costa Rica (tel.)	Same subject. Arrests of civilians continue; Tinoco fears outbreak and has dispatched more troops to Limón.	232
	Feb. 7	From the Chargé in Costa Rica (tel.)	Same subject. Informed that revolutionary movement will begin next week; little chance of success; reign of terror expected.	232
	Feb. 15	From the Chargé in Costa Rica (tel.)	Same subject. Many arrests, resulting in confessions, reveal widespread nature of revolt. Calderon, a Nicaraguan, and ex-President Duran both attempted to persuade Tinoco to resign. Reported Volio unable to do anything in Panama.	232

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No.	Date	From and to whom	Subject	Page
	1918 Feb. 20	From the Navy Department (Office of Naval Intelligence)	Same subject. Transmits to Department a report on political and financial condition of Costa Rica, giving history of present régime.	233
	Feb. 22	From the Chargé in Costa Rica (tel.)	Same subject. Many prominent citizens arrested; movement expected to break out to-day; possibility of San José being cut off.	238
	Feb. 23	From the Chargé in Costa Rica (tel.)	Same subject. Ex-Presidents refused to sign manifesto supporting Tinoco; General Aguilero and brother of Tinoco captured by Guell party; Tinoco arrests many suspects.	238
	Feb. 24	From the Consul at Port Limon (tel.)	Same subject. Government troops fired on passenger train near Limon, killing three, wounding several; M. B. Ryan, an American, wounded; communication between Limon and San José cut; Gomez requests vessel to protect American interests.	239
	Feb. 24	From the Chargé in Costa Rica (tel.)	Same subject. Government troops attack passenger train at La Pascua; Tinoco checks Gomez's success.	239
	Undated [Rec'd Feb. 24]	From the Chargé in Costa Rica (tel.)	Same subject. Railway to Limon cut; communication difficult; movement growing.	240
	Feb. 25	To the Chargé in Costa Rica (tel.)	Same subject. Navy Department ready to dispatch vessel to Costa Rica at word from Consul or Legation.	240
	Feb. 25	From the Consul at Port Limon (tel.)	Same subject. Examination shows firing upon passenger train inexcusable. Severe battle between two sections Government troops by mistake. Movement headed by Gomez is strong.	240
	Feb. 26	From the Chargé in Costa Rica (tel.)	Same subject. Close relationship between Irias, Santos, and Tinoco considered as menace to Americans, because of anti-American sentiments.	241
	Feb. 26	From the Chargé in Costa Rica (tel.)	Same subject. Backbone of movement broken; reign of terror exists; sentiment strong for intervention among foreigners and natives.	241
	Feb. 27	From the Chargé in Costa Rica (tel.)	Same subject. Movement practically over; Tinoco defiant toward United States.	242
	Feb. 27	From the Minister in Panama (tel.)	Same subject. Volio begging to leave; plans to invade Costa Rica from Nicaragua; instruction requested.	242
	Feb. 28	To the Consul at Port Limon (tel.)	Same subject. Instruction to keep Department advised by cable in regard to situation.	243

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No.	Date	From and to whom	Subject	Page
	1918 Mar. 1	From the Consul at Port Limon (tel.)	Same subject. Revolution over; failure due to lack of arms. Believe nothing will be done with reference to firing on train without demand of the United States.	243
237	Mar. 1	From the Chargé in Costa Rica	Same subject. Reports complete failure of revolutionary movement; most active leaders captured; untrue that movement was pro-German. Pending instructions, has had no communication with authorities regarding Pascua incident; Tinoco using every means to minimize affair.	243
245	Mar. 2	From the Consul at San José	Same subject. A reign of brutality and loot prevails in Costa Rica; the Government has all the arms; law-abiding citizens arrested; revolutionary movement was not pro-German.	245
	Mar. 2	From the Minister in Panama (tel.)	Same subject. Volio's associates slipped away; may be arrested at David, Panama, if Department desires; Volio still in Panama; instructions requested.	246
	Mar. 4	To the Minister in Panama (tel.)	Same subject. Volio and associates may not be forbidden to leave Republic of Panama if they depart as individuals.	246
	Mar. 4	To the Minister in Panama (tel.)	Same subject. Department can not recommend Volio be held if he desires to leave Panama as a private citizen.	247
	Mar. 7	From the Chargé in Costa Rica (tel.)	Same subject. Extra session Congress postponed until 18th because cannot count on quorum; Tinoco plans to force rich men involved to pay cost of revolution; embargo placed on property of long list of men.	247
	Mar. 14	From the Chargé in Costa Rica (tel.)	Same subject. Central American Court of Justice formally closed Mar. 12, 3 p. m. Closing resolution requested of Tinoco amnesty for political prisoners, but arrests continue.	247
	Mar. 15	From the Chargé in Costa Rica (tel.)	Same subject. Joaquin Tinoco asks whether there is any objection to his going to France via United States; proposes to join French Army.	248
	Mar. 20	From the Chargé in Costa Rica (tel.)	Same subject. Guell and five companions reported murdered by Tinoco forces near Panaman boundary.	248
	Mar. 23	From the Chargé in Costa Rica (tel.)	Same subject. Congress has appointed committee to investigate death of Guell; crowd cheered speech from cathedral steps calling Tinocos assassins; Congress convened on 18th.	248

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No.	Date	From and to whom	Subject	Page
	1918 Mar. 27	From the Chargé in Costa Rica (tel.)	Same subject. Decree of amnesty proclaimed but reservations en- able Tinoco to hold whom he pleases.	249
	Mar. 28	From the Costa Rican Minister	Same subject. Detailed account of misfortunes of Costa Rica under Tinoco régime.	249
	Apr. 3	From the Chargé in Costa Rica (tel.)	Same subject. Reported Padre Volio and 100 men to invade Costa Rica via Puntarenas or Liberia.	253
	Apr. 4	From the Chargé in Costa Rica (tel.)	Same subject. Many arrests again being made; forcible recruitment to meet anticipated attack; broth- er-in-law of Tinoco leaving for Panama with proposition for re- tirement.	253
	Apr. 4	From the Minis- ter in Panama (tel.)	Same subject. Rumored Volio ex- pedition consists of 10 men who plan to enter Puntarenas sepa- rately; strong sentiment in that province against Tinoco because of Guell murder. Tinoco has cabled his representative in Pan- ama to file formal protest with American Minister.	253
	Apr. 5	From the Chargé in Costa Rica (tel.)	Same subject. Constitutional guar- antees suspended by Congress at order of Tinoco for 30 days in view of "threatened foreign in- vasion."	254
	Apr. 7	From the Minis- ter in Panama (tel.)	Same subject. Panaman authori- ties arrested 11 revolutionists. Tinoco cables Clare that he has dispatched 1,000 men and asks names of those in Panama who aided revolutionists.	254
	Apr. 7	From the Chargé in Costa Rica (tel.)	Same subject. Volio expedition on Costa Rican soil near Panaman border.	254
	Apr. 11	From the Chargé in Costa Rica (tel.)	Same subject. Volio force on Costa Rican soil near Buenos Aires; equipment or means not known; Tinoco blames Panama; 3,000 un- der arms. No news from Ameri- can Legation, Panama.	255
	Apr. 12	From the Minis- ter in Panama (tel.)	Same subject. Revolutionists brought here last night with ex- ception of Volio, who has evaded authorities; Clare instructed to thank Government for detaining them. Quesada on way to Pan- ama to visit mother.	255
	Apr. 14	From the Chargé in Costa Rica (tel.)	Same subject. Dr. Gutierrez Navas in receipt of telegram from Ni- caragua demanding investigation in view of maltreatment of Nicara- guan boy; leaves for Nicaragua on 18th; Nicaragua thus joins oppo- sition to Tinoco.	255

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No.	Date	From and to whom	Subject	Page
	1918 Apr. 19	From the Chargé in Costa Rica (tel.)	Same subject. Tinocos still have hope of recognition by United States; denial of this possibility might lead to their retirement.	256
	Apr. 23	To the Chargé in Costa Rica (tel.)	Same subject. Instruction to hand to Tinoco and to make public a statement emphatically denying any intention of recognizing Tinoco régime.	257
	Apr. 25	To the Minister in Panama (tel.) The same to Guatemala and Nicaragua	Same subject. Transmits text of telegram of April 23 to Costa Rica, denying any intention of recognizing Tinoco régime.	257
	Apr. 26	From the Chargé in Costa Rica (tel.)	Same subject. Tinocos believe publication of Department's Apr. 23 would bring about their immediate assassination; afraid to retire for same reason.	257
	Apr. 26	To the Chargé in Costa Rica (tel.)	Same subject. No objection to Joaquin Tinoco's going to France via the United States.	258
	Apr. 28	From the Chargé in Costa Rica (tel.)	Same subject. Joaquin Tinoco says he can arrange retirement of brother and himself in about a week; would vacate in favor of friend who would give them missions abroad.	258
	Apr. 30	To the Chargé in Costa Rica (tel.)	Same subject. Department approves action; quoted portion Department's Apr. 23 sent to Legations in Panama, Guatemala, and Nicaragua for public use.	259
	May 3	From the Chargé in Costa Rica (tel.)	Same subject. Publication in Panama of Department's declaration of Apr. 23; Tinoco published it to-day in a manifesto.	259
	May 8	From the Chargé in Costa Rica (tel.)	Same subject. Public realizes Tinoco compelled to publish Department's declaration; are well pleased; Congress, supporting him, passed resolution expressing surprise and pain at declaration.	260
	May 8	From President Gonzalez of Costa Rica to President Wilson	Same subject. Quotes a proclamation issued by himself stating that the Executive power of Costa Rica will not be relinquished until a legal government has been established.	260
	May 11	From the Chargé in Costa Rica (tel.)	Same subject. Casa Miglia, Tinoco representative, sent to Nicaragua, supposedly carrying acceptance of rumored Nicaraguan demands; force from Nicaragua only chance of eliminating Tinoco.	261
	May 13	To the Costa Rican Minister	Same subject. Acknowledges receipt of his note of Mar. 28.	262

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No.	Date	From and to whom	Subject	Page
	1918 May 18	From the Chargé in Costa Rica (tel.)	Same subject. Prevalent opinion that Tinoco planning to resign; Perez Zeledon in Washington sup- posed to represent radical op- position.	262
	May 23	From the Chargé in Costa Rica (tel.)	Same subject. Forces mobilized; excuse is Nicaraguan danger, but real purpose graft; Bank of Costa Rica contract to be canceled; demonstration in favor of Duran made at medal presentation.	262
	May 23	From the Chargé in Costa Rica (tel.)	Same subject. Tinocos attempting to force Congress to declare war on Germany; German property not to be harmed; Joaquin Tinoco states he and brother will leave country and asks Department's opinion on successor.	263
	May 29	From the Chargé in Costa Rica (tel.)	Same subject. Joaquin Tinoco states he and brother will leave in June; exchange raised as result of rumor that Bank contract to be canceled.	264
	May 30	From the Minis- ter in Nicaragua (tel.)	Same subject. President Chamorro considers abnormal situation in Costa Rica as menace to Nica- ragua and desires to know atti- tude of Department on best solution.	264
	June 3	To the Chargé in Costa Rica (tel.)	Same subject. Asks whether Ti- nocos' departure more or less probable in view of declaration of war.	265
	June 4	To the Minister in Nicaragua (tel.)	Same subject. The Department appreciates President Chamorro's expression of friendship; feels that patience should be exer- cised towards Costa Rica; is con- sidering suggestion that ships cease calling at Costa Rican ports.	265
	June 5	From the Chargé in Costa Rica (tel.)	Same subject. Tinocos' departure less likely in view of present situa- tion; moral pressure and financial difficulties will not force them out; only fear military movements.	265
	June 10	From the Chargé in Costa Rica (tel.)	Same subject. Piza to be replaced in Washington by Guardia; Ti- noco not sincere about departure.	266
	Aug. 13	From the Chargé in Costa Rica (tel.)	Same subject. Federico Tinoco, in speech to Congress, denies that he ever offered to resign, but merely stated certain conditions to his friends; declares he does not fear invasion from Nicaragua be- cause on best terms with Cha- morro; warns pernicious foreign- ers.	266

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No.	Date	From and to whom	Subject	Page
35	1918 Sept. 13	To the Minister in Guatemala (tel.)	Same subject. Department in- formed Casa Miglia on way to Guatemala to obtain arms for Tinoco; instruction to intimate to Guatemala that Department hopes he will not succeed.	267
	Sept. 18	From the Minis- ter in Guate- mala (tel.)	Same subject. Casa Miglia is ac- credited as Costa Rican Chargé; shall intimate to President as in- structed; have warned consular agent against permitting ship- ments of arms on American ves- sels.	267
	Sept. 29	From the Minis- ter in Guate- mala (tel.)	Same subject. President Cabrera assures he will not allow purchase of arms for Tinoco.	268
	Oct. 26	From the Minis- ter in Honduras (tel.)	Same subject. President Bertrand requested to join Nicaragua in movement to overthrow Tinoco; asks attitude of the United States.	268
	Oct. 28	From the Minis- ter in Honduras	Same subject. President Bertrand will take no action on Nicaraguan proposition to oust Tinoco until he knows attitude of the United States; Nicaraguan Minister on special mission is endeavoring to enlist aid in that movement.	268
	Nov. 3	From the Chargé in Costa Rica (tel.)	Same subject. Executive decree published to-day grants amnesty to all Costa Rican emigrados; Iglesias secretly urging Chamorro to aid them.	270
	Nov. 4	To the Minister in Honduras (tel.)	Same subject. Instruction to in- form President Bertrand that the United States can not approve armed activities against Costa Rica.	270
	Nov. 4	To the Minister in Nicaragua (tel.)	Same subject. Instruction to re- call to President Chamorro atti- tude of the United States towards armed action against Costa Rica; quotes telegram of Nov. 4 to Hon- duras.	270
	Nov. 6	From the Chargé in Nicaragua (tel.)	Same subject. President advises that Honduran Government had agreed to plan for armed action against Costa Rica, but in view of Department's declaration, Nica- ragua will abandon plan.	271
	Nov. 13	From the Chargé in Costa Rica (tel.)	Same subject. Peace demonstra- tions last night at British Consula- tate and Italian, French, and American Legations; crowd cheers speech of Chargé quoting Presi- dent Wilson.	271
	Nov. 13	From the Chargé in Costa Rica (tel.)	Same subject. Crowd of young men before Legation, cheering United States and President Wil- son, dispersed and beaten by order of Tinoco.	271

COSTA RICA—Continued

No.	Date	From and to whom	Subject	Page
393	1918 Nov. 14	From the Chargé in Costa Rica (tel.)	Same subject. Witnesses allege Joaquin Tinoco present at raid on crowd before Legation; Victor [Charles] Ross, an American, among those sabered; popular sentiment apparently supports Chargé.	272
	Nov. 15	From the Chargé in Costa Rica (tel.)	Same subject. Version Legation incident cabled President and four Senators by friend of Tinoco is false; American colony considers incident as insult to the United States; rumors of Cabinet meeting to consider Chargé's expulsion.	272
	Nov. 16	From the Consul at San José	Same subject. Report of Legation incidents of Nov. 12 and 13.	273
	Nov. 18	From the Chargé in Costa Rica (tel.)	Same subject. Tinocos' attitude insulting; life of Chargé threat- ened in case of U. S. intervention.	274
	Nov. 19	To the Chargé in Costa Rica (tel.)	Same subject. Request to cable exact text of "brief remarks to crowd."	274
	Nov. 20	From the Chargé in Costa Rica (tel.)	Same subject. Transmits text of remarks to crowd before Lega- tion.	275
	Nov. 26	To the Chargé in Costa Rica (tel.)	Same subject. Instruction to close Legation and return to the United States.	275

CUBA

470	1917 June 18	To the Minister in Cuba (tel.)	Financial affairs. Requests trans- lation of decree authorizing loan and for increased revenues, re- ported in <i>La Lucha</i> , May 27.	284
	July 2	From the Minis- ter in Cuba	Same subject. Transmits decree providing for loan and taxation measure to furnish revenue; no attempt has been made to put de- cree into effect as Congress shows disposition to pass measure in regular way.	285
	July 13	From the Minis- ter in Cuba (tel.)	Same subject. Authority for 30,000,000-dollar loan voted by Congress.	285
	July 19	To the Minister in Cuba (tel.)	Same subject. Instruction to re- mind Cuban Government of treaty provisions as to loans and of previous practice of obtaining approval of the United States.	285
	July 24	From the Minis- ter in Cuba (tel.)	Same subject. President Menocal vetoed loan bill because of re- strictive provisions and elimina- tion by Congress of certain taxes.	286
	July 26	From the Minis- ter in Cuba (tel.)	Same subject. Congress accepts veto and House passes measure satisfactory to President who hopes Senate will pass same bill before adjournment.	286

CUBA—Continued

No.	Date	From and to whom	Subject	Page
481	1917 July 28	From the Minister in Cuba (tel.)	Same subject. Senate passes House loan bill with accompanying tax measure.	286
	Aug. 1	From the Minister in Cuba	Same subject. Transmits text of President Menocal's veto of loan bill, giving viewpoint of Government on taxation problems.	286
	Aug. 2	To the Minister in Cuba (tel.)	Same subject. Asks what information has been received from Cuban Government regarding loan.	294
	Aug. 8	From the Minister in Cuba (tel.)	Same subject. Cuban Subsecretary of State is bringing to Washington data called for by the Department.	294
	488 Aug. 8	From the Minister in Cuba	Same subject. Transmits text of law passed by Congress and approved by President, authorizing loan.	294
	Aug. 13	To the Secretary of the Treasury	Same subject. Gives statement of questions involved in loan to Cuba; suggests a conference between the two Departments.	298
	Aug. 18	To the Consul at Santiago de Cuba for the Special Agent in Cuba (tel.)	Political affairs. Navy Department is sending Marines to Guantanamo in response to invitation of Cuban Government.	276
	Aug. 22	From the Special Agent in Cuba (tel.)	Same subject. Sending of Marines to Guantanamo is gratifying to planters.	277
	Aug. 22	From the Secretary of the Treasury	Financial affairs. Treasury Department disposed to grant loan of \$15,000,000 to Cuba; requests Department's views.	300
	Aug. 23	To the Secretary of the Treasury	Same subject. States conditions on which Department would approve Cuban loan; suggests conference of Departments.	300
	Aug. 27	From the Acting Secretary of the Treasury	Same subject. Treasury Department asking advice of War Department concerning war materials to be purchased with Cuban loan; suggests State Department meanwhile treat independently with Cuban Minister on political questions.	301
	Aug. 29	Memorandum of the Division of Latin American Affairs of the Department of State	Same subject. Interview with Cuban Minister; if Platt amendment complied with, and Cuba Railway claims satisfied, Department disposed to approve loan.	301
	Aug. 31	From the Special Agent in Cuba (tel.)	Political affairs. Recommends representation by the United States to the Cuban Government to desist from system of revenge, and to observe promise of amnesty to surrendered Liberals.	277
	Sept. 1	From the Minister in Cuba (tel.)	Financial affairs. Objection of President of Cuba to immediate payment of railway claims.	303

CUBA—Continued

No.	Date	From and to whom	Subject	Page
[Enclosure]	1917 Sept. 4 Sept. 4 Sept. 5 Sept. 5 Sept. 5 Sept. 6 Sept. 8 Sept. 10 Sept. 11	From the Chief of the Bureau of Insular Affairs to the Secretary of War	Same subject. Memorandum on data submitted by Cuban Minister regarding the law of July 31, 1917, providing for the issue of gold bonds	304
		From the Secretary of War	Same subject. Transmits memorandum of even date of the Chief of the Bureau of Insular Affairs.	304
		To the Minister in Cuba (tel.)	Political affairs. Instruction to inform Cuban Government of apparent abuse of amnesty promised revolutionists, and to express confidence that it will exert efforts to maintain orderly conditions.	277
		From the Assistant Secretary of the Treasury	Financial affairs. Requests opinion as to whether Cuban Government is actually engaged in war.	306
		To the U. S. Food Administrator	Sugar production. Communicates request of Cuban Government that no definite action be taken in fixing price of sugar until Cuban Government has been given an opportunity of acquainting Food Administration with its views.	339
		From the Minister in Cuba (tel.)	Political affairs. Requests more definite information regarding instruction of Sept. 5 before making protest to Cuban Government.	278
		To the Minister in Cuba (tel.)	Financial affairs. Instruction to inform President of Cuba that Department wishes grant to be made to railroad as war measure, to facilitate transportation of sugar crop.	306
		From the Minister in Cuba (tel.)	Political affairs. Order issued Aug. 22 by the President of Cuba to military and other authorities to suppress all violence.	278
		From the Minister in Cuba (tel.)	Financial affairs. Reports interview with President who expresses willingness to advance all railroad can expend in betterment for next sugar crop; recommends additional loan to cover amount if necessary.	307
		From the Minister in Cuba (tel.)	Same subject. Recommends that matter of loan be settled as soon as possible, and that two million be added to cover aid to railroads.	308
	Sept. 15	To the Cuban Minister	Same subject. Department sees no objection to bond issue of Cuban Government, and is advised that Treasury Department is prepared to make loan.	309

CUBA—Continued

No.	Date	From and to whom	Subject	Page
[Enclosure]	1917 Sept. 15	To the Minister in Cuba (tel.)	Same subject. Department has informed Cuban Minister that it sees no objection to bond issue, and that Treasury Department is ready to make loan of \$15,000,000; improbable that added two million can be advanced.	309
	Sept. 16	From the Minister in Cuba (tel.)	Same subject. President of Cuba Railroad claims contemplated expenditures will amount to two millions, but desires that needs of railroad be not made obstacle to loan.	310
	Sept. 20	To the Secretary of the Treasury	Same subject. Suggests that if it is deemed inexpedient to make loan to Cuba under terms of act of Congress of Apr. 24, 1917, basis of refusal should not be that Cuba is not "engaged in war with enemies of the United States."	310
	Sept. 26	From the Minister in Cuba (tel.)	Political affairs. Former President Gomez removed from prison on account of illness.	278
	Sept. 27	From the U. S. Food Administration to the Chief of the Latin American Division of the Department of State	Sugar production. Transmits copy of proposed press release giving plan of Food Administration in regard to sugar control, and expressing views on handling of Cuban crop.	340
	Oct. 5	From the Acting Secretary of the Treasury to the Cuban Minister	Financial Affairs. Explains impossibility of accepting Cuban bonds under present regulations.	312
	Oct. 5	From the Acting Secretary of the Treasury	Same subject. Encloses, for the approval of the Department, draft of letter of even date to be sent to the Cuban Minister.	312
120	Oct. 11	From the Cuban Minister	Political affairs. Asks that sum taken from accused persons by American authorities in Haiti and deposited in Department of State be delivered to Cuban Minister.	279
Oct. 12	To the Secretary of the Treasury	Financial affairs. Department approves draft of letter to Cuban Minister regarding loan.	313	
Oct. 26	From the International Sugar Committee	Sugar production. Suggests conference of the International Sugar Committee with representatives of Cuban Government and planters.	343	
129	Oct. 26	From the Cuban Minister	Same subject. Enumerates conditions affecting cost of production, and states price considered fair by Cuban planters.	344
[Enclosure]	Oct. 29	From the Cuban Minister to the Secretary of the Treasury	Financial affairs. Under its Constitution the Cuban Government can not comply with provisions of act of U. S. Congress of Sept. 24 regarding loans to foreign governments.	313

CUBA—Continued

No.	Date	From and to whom	Subject	Page
187	1917 Oct. 29	To the Cuban Minister	Sugar production. Communicates desire of International Sugar Committee for a conference with representatives of Cuban Government and sugar planters.	345
134	Oct. 31	From the Cuban Minister	Same subject. Cuban Sugar Commission glad to confer with the International Sugar Committee.	346
	Nov. 7	From the Assistant Secretary of the Treasury	Financial affairs. Transmits letter from the Cuban Government stating that under the Cuban Constitution it can not comply with provisions of act of U. S. Congress of Sept. 24 regarding loans to foreign governments.	313
	Nov. 8	To the Cuban Minister	Sugar production. Department feels price of sugar should be determined between buyers and sellers under auspices of commission in New York without Government intervention.	346
	Nov. 16	To the Minister in Cuba (tel.)	Political affairs. Instruction to ascertain nature of suit in Case 145 of 1917.	279
	Nov. 20	From the Secretary of the Treasury	Financial affairs. Requests advice as to whether, in view of commitments made by Cuba while expecting loan, the United States is morally obligated to give Cuba financial aid.	314
155	Nov. 20	From the Cuban Minister	Sugar production. Presents fully position of Cuban Government regarding fixing of price by commission.	347
[Enclosure]	Nov. 23	From the Adviser to the Secretary of the Treasury to the Minister in Cuba	Financial affairs. Reviews the probable immediate financial needs of Cuba, and suggests requesting of that Government a statement of its requirements.	315
	Nov. 24	From the U. S. Food Administrator to President Wilson	Sugar production. Requests the support of the President in the matter of the price fixed for Cuban sugar by the International Committee.	349
	Dec. 1	To the Secretary of the Treasury	Financial affairs. Examination of correspondence on loan indicates that moral obligation exists to give Cuba financial assistance.	314
	Dec. 14	From the Secretary of the Treasury	Same subject. Transmits copy of letter of Nov. 23 from the Adviser to the Secretary of the Treasury to the Minister in Cuba regarding loan, which reviews the probable immediate financial needs of Cuba, and suggests requesting of that Government a statement of its requirements.	315

CUBA—Continued

No.	Date	From and to whom	Subject	Page
548	1917 Dec. 16	From the Minister in Cuba	Sugar production. Expresses apprehension about political and economic effect in Cuba of our fixing price of raw sugar, with provision for buying crop; gives detailed account of methods of sugar production.	350
	Dec. 17	From the Minister in Cuba (tel.)	Political affairs. Suit against Rafael Manderley, <i>et al.</i> , is for part in revolution; has nothing to do with funds taken out of Cuba by Fernandez.	279
	1918 Jan. 14	To the U. S. Food Administrator	Sugar production. Department can not see way clear to make statement in regard to agreement entered into between International Sugar Committee and various Cuban representatives.	353
460	Jan. 15	To the Cuban Minister	Political affairs. United States is prepared to deliver sum to Cuban Government if held harmless from all claims brought by Fernandez, <i>et al.</i>	280
	Jan. 18	From the Cuban Minister	Sugar production. Contract for sale of Cuban sugar entered into by International Committee, U. S. Food Administration, and Cuban commissions was approved by Cuban Government Jan. 17.	353
	Jan. 19	To the Minister in Cuba (tel.)	Financial affairs. Requests report by cable on Cuban attitude and whether they will again request a loan.	316
	Jan. 22	From the Minister in Cuba (tel.)	Same subject. Data on loan requested Dec. 5 is promised within a few days.	316
	Jan. 29	From the Minister in Cuba (tel.)	Political affairs. Limited amnesty bill passed by House of Representatives.	281
[Enclosure]	Jan. 29	The Adviser to the Secretary of the Treasury to the Minister in Cuba	Financial affairs. <i>Résumé</i> of situation in regard to a loan to Cuba.	317
	Jan. 30	From the Adviser to the Secretary of the Treasury to the Chief of the Division of Latin American Affairs of the Department of State	Same subject. Encloses copy of the letter of Jan. 29 to the Minister in Cuba.	316
	Feb. 12	To the Secretary of the Treasury	Sugar production. According to reports from American officials in Cuba, sugar can not be moved with rapidity essential to satisfactory financial operations due to lack of tonnage; Department recommends arrangement to extend credit to producers.	354

CUBA—Continued

No.	Date	From and to whom	Subject	Page
	1918 Feb. 12	To the Consul General at Habana for the Special Agent in Cuba (tel.)	Same subject. Transmits statement of Mr. Hoover that contract price on all sugar will be maintained, and that \$45,000,000 of loan has been subscribed.	355
	Feb. 15	From the Special Agent in Cuba for Mr. Hoover (tel.)	Same subject. Wide publicity given to Hoover's assurance regarding price of sugar and success of loan; will have good effect in stopping sugar speculation.	355
581	Feb. 18	From the Minister in Cuba	Financial affairs. Transmits report of the expenditures of the Cuban Government on account of war; President Menocal asks loan of \$15,000,000; Cuban vessels patrolling Cuban coasts.	318
	Feb. 19	To the U. S. Food Administrator	Same subject. The Department trusts that the necessary credit for Cuban sugar crop may be consummated at an early moment.	319
44	Feb. 21	From the Cuban Minister	Political affairs. Assurance that Cuban Government will hold United States harmless from all claims which may be brought by Fernandez, <i>et al.</i>	281
584	Feb. 23	From the Minister in Cuba	Same subject. Imprisoned Cuban Army officers pardoned by decree of Feb. 22, 1918.	281
226	Mar. 2	To the Cuban Minister	Same subject. Offers to deliver to Cuban Minister funds in the Department pertaining to Haitian incident, Fernandez, <i>et al.</i>	282
55	Mar. 6	From the Cuban Minister	Financial affairs. Presents credentials to negotiate and conclude \$15,000,000 loan; and asks that Treasury Department be advised.	320
57	Mar. 7	From the Cuban Minister	Political affairs. Receipt for funds received from United States in case of Fernandez, <i>et al.</i>	282
	Mar. 7	From the Assistant Secretary of the Treasury to the Counselor for the Department of State	Financial affairs. Asks whether Cuban Government has power to incur indebtedness of \$15,000,000, and whether Cuban Minister has authority to sign obligations.	320
	Mar. 9	From the Assistant Secretary of the Treasury to the Counselor for the Department of State	Same subject. The powers given the Cuban Minister are insufficient for the proposed negotiations.	321
61	Mar. 18	From the Cuban Minister	Same subject. Transmits credentials which set forth new powers to conclude loan of \$15,000,000.	322
	Mar. 19	From the Minister in Cuba (tel.)	Political affairs. Amended amnesty bill passed House and signed by President.	283
	Mar. 21	From the Minister in Cuba (tel.)	Same subject. Gomez, former President of Cuba, released under amnesty bill.	283

CUBA—Continued

No.	Date	From and to whom	Subject	Page
63	1918 Mar. 26	To the Secretary of the Treasury	Financial affairs. Power of Cuban Government to increase indebtedness involves construction of Cuban law of July 31, 1917; proviso regarding increase of current expenses must be observed.	322
	Mar. 29	From the Secre- tary of the Treasury	Same subject. Advance of \$5,000,- 000 made to Cuba Mar. 27; the Treasury Department desires to be informed, before making further advances, if for any reason that Government is not authorized to incur further indebtedness.	323
	Mar. 29	From the Cuban Minister	Same subject. Conveys thanks of Cuban Government for successful termination of loan negotiations.	324
	Apr. 1	From the Minis- ter in Cuba (tel.)	Sugar production. In interview with Mr. Potter, President ac- cepts his plan for loans.	356
	Apr. 5	To the Minister in Cuba (tel.)	Financial affairs. Instruction to obtain official assurances as to authority of Cuban Government under Constitution to grant Cuban Minister power to bind Government, and as to binding effect of his signature under such powers.	324
	Apr. 6	From the Minis- ter in Cuba (tel.)	Same subject. Cuban Government understands authority given Cu- ban Minister to be absolute.	325
	Apr. 9	To the Minister in Cuba (tel.)	Same subject. Department desires to be informed if 1917-18 budget has been increased; if so, how much, and in what items?	325
	Apr. 13	To the Minister in Cuba (tel.)	Same subject. Enumerates three points which formal official state- ment of Cuban Government should cover regarding powers granted Cuban Minister.	326
	Apr. 20	To the Chargé in Cuba (tel.)	Same subject. Requests definite information as to returns of tax imposed under law of July 31, 1917, and whether Government can divert such income to other purposes than payment of interest and retirement of bonds.	326
	Apr. 30	From the Chargé in Cuba (tel.)	Same subject. Cuban Secretary of the Treasury promised to secure information requested in Depart- ment's Apr. 20; immediate reply is again requested.	327
628	May 8	From the Minis- ter in Cuba	Same subject. Transmits com- munication of May 6 from Cuban Secretary of the Treasury to Cuban Secretary of State, con- taining statement of tax returns under law of July 31, 1917, and rules governing their application.	327

CUBA—Continued

No.	Date	From and to whom	Subject	Page
[Enclosure]	1918 May 8	From the Cuban Subsecretary of State to the American Chargé	Same subject. Quotes statement of the Cuban Secretary of the Treasury regarding powers conferred upon the Cuban Minister to negotiate loan.	329
630	May 9	From the Minister in Cuba	Same subject. Transmits note of May 8, from the Cuban Subsecretary of State.	329
	May 30	From the Minister in Cuba (tel.)	Sugar production. Newspaper states Mr. Morgan promised unofficially advance in price for next sugar crop; lack of enthusiasm for present price will result in smaller crop; immediate announcement of increased price would stimulate production.	356
	June 5	From the Minister in Cuba (tel.)	Financial affairs. Transmits in full Cuban Secretary of the Treasury's report on budget.	330
	July 10	From the Cuban Minister	Sugar production. Announces appointment of delegates for Cuba in fixing price of Cuban sugar for 1918-19.	357
708	July 18	From the Minister in Cuba	Financial affairs. Statement regarding proposed loans to railroads by Cuban Government; United Railways of Habana not to receive any part of \$15,000,000 loan.	331
162	Aug. 14	From the Cuban Minister	Same subject. Summarizes the favorable financial situation of Cuba.	331
758	Aug. 16	From the Minister in Cuba	Political affairs. Constitutional guaranties restored by presidential decree of Aug. 14; proclamation of same date enclosed.	283
	Aug. 19	To the Secretary of the Treasury	Financial affairs. Believes further advances to Cuba are warranted.	333
	Aug. 20	To the Cuban Minister	Same subject. Data submitted by Cuban Government has satisfied the Department; recommendation has been made to Secretary of Treasury for a further advance on loan of \$15,000,000.	334
	Aug. 26	From the Secretary of the Treasury	Same subject. Asks whether the obligation of the Cuban Government will be considered valid and binding internationally.	334
	Sept. 9	To the Secretary of the Treasury	Same subject. Treasury Department warranted in making further advance of \$5,000,000; and obligations of the Cuban Government, when executed by Cuban Minister, will be valid and binding internationally.	335
792	Sept. 12	From the Minister in Cuba	Sugar production. Reports destruction by fire of sugar warehouses, machine shops, and electrical apparatus; quotes assurance of President Menocal that sugar stored in Cuba will be protected from enemy destruction.	357

CUBA—Continued

No.	Date	From and to whom	Subject	Page
[Enclosure]	1918 Oct. 11	The Cuban Minister to the Secretary of the Treasury	Financial affairs. Requests second advance from loan credit of \$15,000,000.	337
	Oct. 17	From the Assistant Secretary of the Treasury to the Counselor for the Department of State	Same subject. Encloses letter of Oct. 11 from Cuban Minister; inquires of Department: (1) whether second advance can be legally made, (2) whether there is any further obligation to Cuba Railroad, and (3) whether with respect to proposed additional loan obligations executed by Cuban Minister would be considered by Department as valid and binding internationally.	336
	Oct. 29	To the Secretary of the Treasury	Same subject. Treasury Department is warranted in making further advance of \$5,000,000 to the Cuban Government; no further obligation to Cuba Railroad exists; Department giving consideration to proposed additional loan.	338
	Dec. 5	To the Minister in Cuba	Protection of American trademarks. Instruction to bring to the attention of the Cuban Government apparent violations of the international trade-marks convention.	2n

DOMINICAN REPUBLIC

[Enclosure]	1918 Jan. 24	From the Dominican Claims Commission to the Military Government	Financial affairs. Report and recommendations regarding liquidation of awards.	371
289	Jan. 29	From the Minister in the Dominican Republic	Financial affairs. Reports number of claims registered with Dominican Claims Commission at the close of 1917; encloses report of Jan. 24 from commission to Military Government.	371
	Feb. 25	To the Secretary of the Navy	Proposed revision of customs tariff. Question of amendment of Dominican law one to be determined by Military Government, subject to the approval of the State Department; Department approves desired amendment.	380
	Feb. 28	Memorandum of the Office of the Solicitor for the Department of State	Same subject. Observations regarding drawing up of agreement between United States and Military Government of Santo Domingo relative to modification in import duties of the Republic.	380

DOMINICAN REPUBLIC—Continued

No.	Date	From and to whom	Subject	Page
306	1918 Mar. 4	From the Minister in the Dominican Republic	Financial affairs. Calls Department's attention again to matter contained in despatch of Jan. 29; expresses opinion that commission's recommendations should be approved at once.	373
	Mar. 18	Memorandum of the Office of the Solicitor for the Department of State	Proposed revision of customs tariff. Relationship of the Military Government of Santo Domingo to the Dominican Government.	382
	Mar. 25	To the Secretary of the Navy	Financial affairs. Concurs in opinion of the Minister in the Dominican Republic that plan for liquidation of awards of Claims Commission should be approved; requests information regarding action of the Military Government.	374
	May 2	From the Minister in the Dominican Republic (tel.)	Protection of Chinese interests in the Dominican Republic and Haiti by American diplomatic and consular officers. Since Chinese have no representative, requests authorization to issue emergency passports to them.	397
[Enclosure]	May 2	From the Military Governor of Santo Domingo to the Secretary of the Navy	Financial affairs. Requests that Department of State specifically authorize increase of public debt of Dominican Republic.	375
63	Undated [Rec'd May 8] May 24	From the Secretary of the Navy From the Chinese Minister	Same subject. Transmits letter of May 2, from the Military Governor of Santo Domingo. Protection of Chinese interests in the Dominican Republic and Haiti by American diplomatic and consular officers. Requests that consent of Governments of Haiti and Dominican Republic be secured for the United States to take charge of Chinese interests and issue passports to Chinese citizens in those countries.	374 397
	May 25	To the Secretary of the Navy	Financial affairs. Department requests copies of correspondence relative to appointment of Claims Commission; also information as to when it is proposed to pay awards.	375
	May 30	From the Minister in the Dominican Republic	Protection of Chinese interests in the Dominican Republic and Haiti by American diplomatic and consular officers. Requests reply to telegram of May 2; Chinese desiring to go to China via New York cannot secure passage without passports.	398

DOMINICAN REPUBLIC—Continued

No.	Date	From and to whom	Subject	Page
	1918 June 4	To the Minister in the Dominican Republic (tel.). <i>Mutatis mutan-</i> <i>dis</i> , to Haiti	Same subject. Instruction to re- quest consent of the Dominican Republic to take charge of Chinese interests.	398
66	June 15	From the Chinese Minister	Same subject. Requests confirmation of understanding that present privilege of transit through the United States to China will not be affected by new instructions.	398
354	June 19	From the Minister in the Dominican Republic	Same subject. Permission obtained from Military Government for diplomatic and consular officers to take charge of Chinese interests and issue passports.	399
	June 25	From the Minister in Haiti (tel.)	Same subject. Permission granted to take charge of Chinese interests and issue passports.	399
[Enclo- sure]	July 1	From the Military Governor of Santo Domingo to the Secretary of the Navy	Political, economic, and industrial affairs. Quarterly report for the period Apr. 1-June 30, 1918.	359
	July 10	From the Solicitor for the Department of State to the Chief of the Division of Latin American Affairs	Proposed revision of customs tariff. Expresses opinion that Military Government, acting for Dominican Government, may enter into agreement with President of United States modifying import duties as provided under Art. 3 of treaty of 1907.	389
	July 17	From the Secretary of the Navy	Political, economic, and industrial affairs. Transmits copy of the quarterly report of the Military Governor of Santo Domingo for the period Apr. 1-June 30, 1918.	359
	July 19	To the Secretary of the Navy	Financial affairs. Approves the issuance by Government of Dominican Republic of bonds for payment of awards of Claims Commission.	376
	Undated [Rec'd Aug. 13]	From the Secretary of the Navy	Same subject. Transmits Executive Order No. 193 issued by Military Governor in regard to issue of bonds to pay awards of Dominican Claims Commission.	377
80	Aug. 14	To the Chinese Minister	Protection of Chinese interests in the Dominican Republic and Haiti by American diplomatic and consular officers. Department of Labor has made no change in the regulations governing transit of Chinese across the United States.	400
[Enclo- sure]	Oct. 18	From the Military Governor of Santo Domingo to the Secretary of the Navy	Political, economic, and industrial affairs. Quarterly report for period of July 1-Sept. 30, 1918.	364

DOMINICAN REPUBLIC—Continued

No.	Date	From and to whom	Subject	Page
1580- 18K- F1	1918 Nov. 6	From the Military Governor of Santo Domingo	Proposed revision of customs tariff. Proposes transfer to customs law of certain import taxes included under internal revenue law and discusses problem involved; encloses draft of proposed executive orders "A" and "B".	389
	Nov. 13	From the Secretary of the Navy	Political, economic, and industrial affairs. Transmits copy of quarterly report of Military Governor of Santo Domingo for the period of July 1-Sept. 30, 1918.	364
	Nov. 29	Memorandum of the Solicitor for the Department of State	Proposed revision of customs tariff. Opinion on proposed executive orders "A" and "B" of Military Government; recommendation that exact figures of revenue yield under proposed change be obtained, and that proposed change in customs law be made if practicable.	392
	1919 Jan. 11	To the Secretary of the Navy	Same subject. Department desires more information before giving its views on proposed revision of customs law; it appears that revision would be contrary to treaty of 1907.	396

ECUADOR

263	1918 Jan. 2	From the Minister in Ecuador	Claims of the Guayaquil & Quito Railway Co. Note delivered, relating to failure of Ecuadoran Government to make deposits on railway bonds; Ecuadoran Government has not replied.	401
[Enclosure]	Jan. 11	The Ecuadoran Minister of Foreign Affairs to the American Minister	Same subject. In reply to note of Nov. 30, 1917, denies that right of diplomatic intervention was granted in contract, or that there has been a denial of justice warranting intervention.	402
274	Jan. 22	From the Minister in Ecuador	Same subject. Transmits Ecuadoran note of Jan. 11.	401
[Enclosure]	Mar. 12	From the American Minister to the Ecuadoran Minister of Foreign Affairs	Same subject. Protest against publication of notes relative to questions in process of diplomatic negotiation.	407
[Enclosure]	Mar. 12	From the Ecuadoran Minister of Foreign Affairs to the American Minister	Same subject. In reply to communication of even date, defends publication of notes as being routine and non-diplomatic in character.	408

ECUADOR—Continued

No.	Date	From and to whom	Subject	Page
	1918 Mar. 14	From the Minister in Ecuador (tel.)	Same subject. Has protested to the Ecuadoran Government against the publication of his notes without his consent.	406
	Mar. 19	To the Minister in Ecuador (tel.)	Same subject. Ecuadoran Minister has expressed regret for publication of notes. Asks what notes were published and what was the effect of publication upon the public.	406
	Mar. 21	From the Minister in Ecuador (tel.)	Same subject. Department's Mar. 19 answered in despatch Mar. 14. Effect upon the public of publication of diplomatic correspondence is prejudicial; newspaper comment bitter.	407
299	May 7	From the Minister in Ecuador	Same subject. Transmits copies of correspondence exchanged with Foreign Office regarding publication of notes.	407
	June 5	From the Ecuadoran Minister	Same subject. Submits draft memorandum on conference with the Secretary of State, requesting that it be corrected and approved for transmission to his Government.	409
	June 5	From the Ecuadoran Minister to the Chief of the Division of Latin American Affairs of the Department of State	Same subject. Submits draft memorandum on conference with Chief of the Division of Latin American Affairs, requesting that it be corrected and approved for transmission to his Government.	410
	June 6	To the Minister in Ecuador (tel.)	Same subject. Interview with Ecuadoran Minister regarding restriction on importation of cacao, and possible effect of resumption of payments of interest on railway bonds.	411
	June 12	From the Minister in Ecuador (tel.)	Same subject. Minister of Foreign Affairs says he will be compelled, if order for prohibition of importation of cacao is made, to give matter publicity, but that unrestricted commerce would make possible payments on railway bonds.	411
	June 13	From the Ecuadoran Minister	Same subject. Considers ultimatum of Department of State a hostile act; if carried out, publication of reasons would be necessary; asks if compliance with wishes of Department would guarantee free and unlimited importation of Ecuadoran products.	412

ECUADOR—Continued

No.	Date	From and to whom	Subject	Page
	1918 June 15	From the Consul General at Guayaquil	Attitude of the United States toward Latin America. Transmits editorial regarding President Wilson's speech to the Mexican newspaper men, and expresses satisfaction at change in sentiment toward the United States.	581
	June 19	To the Ecuadorian Minister	Claims of the Guayaquil & Quito Railway Co. Department's suggestions regarding resumption of daily deposits of interest on railway bonds can not be construed as imperative demand; Department informed by War Trade Board that on June 28 all consideration of importation matters must cease.	413
	June 19	To the Minister in Ecuador	Same subject. Transmits, with instruction to hand to Minister of Foreign Affairs, the memorandum presented to the Ecuadoran Minister on June 19.	414
189	June 20	To the Minister in Ecuador	Same subject. Approves action of Minister in protesting against publication of correspondence without Legation's consent and in declining to accept offered explanations.	415
	June 23	From the Minister in Ecuador (tel.)	Same subject. Reports delivery of Department's note of June 19; no answer.	415
14	July 6	From the Ecuadorian Minister	Same subject. States that an amount will be set aside out of customs receipts to meet interest of English debt provided no restriction be laid on importation of cacao.	415
	July 9	To the Minister in Ecuador (tel.)	Same subject. Instruction to inform Ecuadoran Government that 7,200 tons of cacao may be imported to the United States, and that immediate resumption of daily deposits is expected.	416
	July 12	From the Minister in Ecuador (tel.)	Same subject. Reports compliance with Department's instructions of July 9, 6 p. m.; no reply received.	416
28	July 23	To the Ecuadorian Minister	Same subject. Advises that 7,200 tons of cacao may now be imported, and Department expects that daily deposits in payment of interest on railway bonds will be resumed.	416
	Aug. 9	To the Minister in Ecuador (tel.)	Same subject. Advises of suspension by War Trade Board of importations from Ecuador, and that if Ecuador should immediately commence to make deposits agreed to, Department might be able to intervene.	417

ECUADOR—Continued

No.	Date	From and to whom	Subject	Page
	1918 Aug. 14	From the Minister in Ecuador (tel.)	Same subject. Reports interview with Minister of Foreign Affairs and communicates substance of his unofficial memorandum stating that on Aug. 8 Minister of Hacienda ordered setting aside of funds for daily deposits.	417
	Aug. 15	From the Minister in Ecuador (tel.)	Same subject. Reports interview with the Minister of Foreign Affairs, who expresses apprehension that congressional action due to suspension of cacao imports may result in his resignation.	418
	Aug. 16	To the Minister in Ecuador (tel.)	Same subject. Requests information as to whether deposits have been resumed on railway bonds, amount of deposits, and manner of resumption.	418
	Aug. 17	From the Minister in Ecuador (tel.)	Same subject. Reports resumption of deposits on Aug. 8; quotes memorandum from the Undersecretary, Ministry of Hacienda, as to limitation on resumption and exact amount.	419
	Aug. 21	From the Ecuadoran Minister	Same subject. Requests permission to export to the United States all cacao stored in Ecuador, thereby enabling complete payment of the interest coupons.	419
	Sept. 11	To the Minister in Ecuador (tel.)	Same subject. Quotes telegrams received from general manager of Guayaquil & Quito Railway Co. and London Council of Foreign Bondholders; requests information as to impending action of Ecuadoran Congress regarding railway bonds.	419
	Sept. 20	From the Minister in Ecuador (tel.)	Same subject. Prevalent opinion that no legislation affecting railway will pass Congress.	420
	Oct. 14	To the Minister in Ecuador (tel.)	Same subject. Requests information as to deposits on interest, whether any remittances to London, where money is deposited, and whether it can be withdrawn by Government of Ecuador.	420
	Oct. 25	From the Minister in Ecuador (tel.)	Same subject. Reports daily deposits since Aug. 8 in Banco Commercial y Agricola amounting to 67,000 sures; London remittances.	420
	Nov. 15	From the Ecuadoran Minister to the Counselor for the Department of State	Same subject. Reviews situation in Ecuador caused by restriction of cacao importation; expresses hope that restrictions may be removed.	421

ECUADOR—Continued

No.	Date	From and to whom	Subject	Page
43	1918 Nov. 21	To the Minister in Ecuador (tel.)	Same subject. Requests information as to whether daily deposits are made in name of Council of Foreign Bondholders, and amount of remittance made to London.	424
	Nov. 26	From the Minister in Ecuador (tel.)	Same subject. Daily deposits made favor Guayaquil & Quito Railway Co.; total amount 79,000 sures; no remittances to London.	424
	Nov. 29	To the Ecuadoran Minister	Same subject. Advises that all cacao stored in Ecuador, may now be imported; expresses pleasure that payment entire amount due on coupons of railway will now be made.	424
	206 Dec. 6	To the Minister in Ecuador	Same subject. Instruction to ascertain whether payment in full on coupons of railway bonds has been made in accordance with pledge of Ecuadoran Minister.	425
	28 Dec. 12	From the Ecuadoran Minister	Same subject. Government adheres to its promise to pay the coupons [cupones] out of proceeds of cacao sale; states difficulty in obtaining transportation for cacao and expresses hope that the United States may be able to help.	426
	Dec. 18	From the Minister in Ecuador (tel.)	Same subject. All money deposited on interest of railway bonds will be placed to order of Council of Foreign Bondholders.	426
	Dec. 26	To the Ecuadoran Minister	Same subject. In view of information that greater part of cacao has already been shipped, Department hopes that early payment will be made on coupons of railway.	427

FRANCE

3050	1918 Jan. 9	To the Ambassador in France (tel.)	China—Loan negotiations: Currency reorganization and loan and currency reform. Legation at Peking advises Japanese loan agreement signed Jan. 6.	139
3096	Jan. 25	From the Ambassador in France (tel.)	Same subject. Minister of Finance approves of participation in loan by French group, but dependent upon cooperation of British group.	141
	Feb. 5	From the French Ambassador	China—Railway concessions: Proposed elimination of German interests from the Hukuang Railway enterprise. Suggests recasting of agreements; asks concurrence and participation of American group.	199

FRANCE—Continued

No.	Date	From and to whom	Subject	Page
	1918 Feb. 8	From the French Ambassador	Claims of American citizens against Mexico. France is of the opinion that decree of Nov. 24, 1917, does not offer adequate guarantees to foreign claimants; requests to be informed of views of the United States.	800
	Feb. 13	To the French Ambassador	Arbitration convention of Feb. 10, 1908. Transmits draft of agreement extending convention indefinitely.	428
	Feb. 15	From the French Ambassador	China—Loan negotiations: Currency reorganization and loan and currency reform. Refers to proposed participation of British group in loan. Advises that French group disposed to accept arrangement with reservation.	142
2069	Feb. 15	To the French Ambassador	China—Railway concessions: Proposed elimination of German interests from the Hukuang Railway enterprise. Suggestions of the 5th inst. will have careful consideration.	200
2074	Feb. 16	To the French Ambassador	China—Loan negotiations: Currency reorganization and loan and currency reform. Refers to former discussion of proposed advance to China and states no action has been taken toward organization of American group pending decision to participate by French and British groups.	143
	Feb. 21	To the French Ambassador	Arbitration convention of Feb. 10, 1908. Transmits new draft of agreement extending convention for a further period of 5 years.	428
Treaty Series No. 631	Feb. 27	Agreement	Same subject. Agreement between the United States and France extending the duration of the arbitration convention for 5 years.	428
2085	Mar. 2	To the French Ambassador	China—Loan negotiations: Currency reorganization and loan and currency reform. Discussion of British, French and U. S. participation in loan to China.	144
2090	Mar. 5	To the French Ambassador	Claims of American citizens against Mexico. No definite position can be taken by the United States until further information is received from Mexico with reference to certain articles of the decree of Nov. 24, 1917; information has been requested.	800
	Mar. 16	From the French Ambassador	Mexico—Financial affairs. French Government believes foreign capital put in jeopardy by creation of one bank of issue under Carranzista Constitution; asks what measures the U. S. Government would be willing to take.	644

FRANCE—Continued

No.	Date	From and to whom	Subject	Page
	1918 Apr. 29	To the French Ambassador	Same subject. Present time not considered opportune to make representations to Mexico regarding Art. 10 of the law for the creation of a sole bank of issue.	653
2181	July 10	To the French Ambassador	China—International financial consortium. Decision to take up matter of loan to China; bankers' letter of July 8 and Department's reply enclosed.	175n
	July 11	To the Ambassador in France (tel.)	Same subject. Movement to form four-power consortium to make loan to Chinese Government; relinquishment of options on loans is proposed condition of membership; sovereignty of China must not be impaired.	176n
2189	July 15	To the Ambassador in France	Same subject. Transmits copy of letter from bankers in New York and Chicago, dated July 8, and Department's answer of July 9, with reference to proposed consortium.	177n
5158	July 30	To the Ambassador in France (tel.)	Same subject. Summary of statement given to the press concerning formation of American group and its agreement with the Department.	181n
5382	Aug. 21	To the Ambassador in France (tel.)	Same subject. Expresses hope that the French Government will be disposed to cooperate in the proposed consortium.	191n
	Sept. 10	From the French Ambassador	Same subject. States case for retaining Russia in new consortium.	192
2249	Oct. 8	To the French Ambassador	Same subject. Restates the attitude of the U. S. Government; encloses memorandum in reply to the questions raised by the other interested governments.	193
5848	Oct. 8	To the Ambassador in France (tel.)	Same subject. <i>Résumé</i> of the note and memorandum of even date of representatives of France, Great Britain, Japan, and China.	196n
	Dec. 5	To the Ambassador in France	Protection of American trademarks. Instruction to bring to the attention of the French Government apparent violations of the international trade-marks convention.	2n
6560	Dec. 7	To the Ambassador in France (tel.)	Liberia—Financial affairs. Quotes memorandum to the British and French Embassies in connection with the credit established for Liberia, enumerating the steps to be taken by the United States in converting the Liberian loan of 1912 and administering Liberian affairs.	545n

FRANCE--Continued

No.	Date	From and to whom	Subject	Page
6568	1918 Dec. 30	From the Chargé in France (tel.)	Same subject. Quotes extracts from note of the Foreign Office concerning the plan of the Department to administer the finances of Liberia, and inviting the United States to collaborate with France and Great Britain.	547

GREAT BRITAIN

370	1917 June 21	From the Secre- tary of Com- merce	American-Canadian Fisheries Con- ference. Quotes communication from Commissioner of Fisheries in regard to desirability of calling conference for considering fish- eries questions pending between Canada and the United States; requests that British authorities be invited to such a conference.	432
	July 13	From the Coun- selor for the Department of State to the Secretary of Commerce	Same subject. The Secretary de- sires to be more fully informed as to the scope of the proposed con- ference.	433
	July 16	From the Secre- tary of Com- merce	Same subject. The Department of Commerce desires that an agreement be negotiated between Great Britain and the United States; two or more representa- tives should be appointed from the Department of State.	434
	Oct. 4	From the Secre- tary of Com- merce	Same subject. Calls attention to letters of June 21, 1917, and July 16, 1917, and urges importance of conference.	434
	Oct. 8	To the Secretary of Commerce	Same subject. The British Am- bassador will take up with his Government the matter of ar- ranging for a conference; will ad- vise when a definite understand- ing has been reached.	435
	Oct. 8	From the British Ambassador	Same subject. Canadian Govern- ment prepared to recommend the appointment of two commissioners to the conference as soon as U. S. commissioners have been appointed.	435
	Oct. 19	To the Secretary of Commerce	Same subject. Understanding of Department that the representa- tives appointed are empowered merely to reach, if possible, a satis- factory understanding of pending questions and to report to their Governments the result of their deliberations as basis of a formal agreement.	436

GREAT BRITAIN—Continued

No.	Date	From and to whom	Subject	Page
	1917 Oct. 26	From the Secretary of Commerce	Same subject. Concurs with ideas of Secretary of State expressed in communication of Oct. 19.	436
1889	Nov. 13	To the British Ambassador	Same subject. Advises of the designation of two American commissioners; states the understanding of the U. S. Government as to the scope of the conference.	437
519	Nov. 17	From the British Ambassador	Same subject. Understanding as to the scope of the conference is concurred in.	438
1906	Nov. 21	To the British Ambassador	Same subject. In deference to wish of Canadian Government, each Government to be represented by three commissioners; Mr. Redfield, Secretary of Commerce, to be third commissioner for the United States.	438
625	Dec. 19	From the British Ambassador	Same subject. Appointment of Canadian commissioners.	438
[Quoted in tel.]	Dec. 31	From the British Foreign Office to the American Ambassador	China—Loan negotiations: Currency reorganization and loan and currency reform. Expresses willingness to participate in international loan if the American group will advance share of British group at present time.	137
8116	1918 Jan. 1	From the Ambassador in Great Britain (tel.)	Same subject. Transmits British note of Dec. 31, 1917.	137
6202	Jan. 9	To the Ambassador in Great Britain (tel.)	Same subject. Legation at Peking states Japanese loan agreement signed Jan. 6.	139
[Quoted in tel.]	Jan. 12	From the British Foreign Office to the American Embassy	Same subject. Reiterates willingness to participate in international loan on basis of note of Dec. 31.	140
8258	Jan. 14	From the Ambassador in Great Britain (tel.)	Same subject. Transmits note of Jan. 12 from the Foreign Office.	140
161	Feb. 7	From the British Chargé to the Assistant Secretary of State	Liberia—Financial affairs. Trade is free to all except firms on statutory list; shipping to Liberia not limited but will probably be curtailed because of tonnage shortage; British Government wishes to know whether the United States would be inclined to consider assistance to Liberia by the United States, Great Britain, and France.	513
264	Mar. 12	From the British Ambassador	Claims of American citizens against Mexico. Inquires as to views of the United States upon effect of decree of Nov. 24, 1917.	806

GREAT BRITAIN—Continued

No.	Date	From and to whom	Subject	Page
30	1918 Mar. 19	To the British Ambassador	Same subject. Further information has been requested from the Mexican Government with relation to meaning of certain articles of decree of Nov. 24, 1917; no definite position will be taken respecting decree until Department is more fully advised in premises.	806
9411	Apr. 9	From the Ambassador in Great Britain (tel.)	China—Loan negotiations: Currency reorganization and loan and currency reform. Foreign Office inquires as to progress in organizing American group and regarding its scope when organized.	145
7231	Apr. 11	To the Ambassador in Great Britain (tel.)	Same subject. Action on loan situation deferred pending developments; doubtful whether group will be organized in near future.	146
Treaty Series No. 635	June 3	Agreement	Arbitration convention of Apr. 4, 1908. Agreement between the United States and Great Britain extending the duration of the arbitration convention for 5 years.	431
150	July 10	To the British Ambassador. <i>Mutatis mutandis</i> , to the French and Japanese Ambassadors	China—International financial consortium. Decision to take up matter of loan to China; bankers' letter of July 8 and Department's reply enclosed.	175
	July 11	To the Ambassador in Great Britain (tel). <i>Mutatis mutandis</i> , to France, Japan, and China	Same subject. Movement to form four-power consortium to make loan to Chinese Government; relinquishment of options on loans is proposed condition of membership; sovereignty of China must not be impaired.	176
6017	July 15	To the Ambassador in Great Britain	Same subject. Transmits copy of letter from bankers in New York and Chicago, dated July 8, and Department's answer of July 9, with reference to proposed consortium.	177n
9	July 15	From the Consul at London	Liberia—Financial affairs. Transmits a draft of a supplemental agreement between Liberia and the Bank of British West Africa, as submitted to the British Foreign Office, to be later forwarded to France and the United States.	531
804	July 20	From the British Ambassador	China—International financial consortium. Inquires if it is the intention of the American Government to renew the original six-power group in form of four-power group, and whether loans will be administrative only, or also industrial.	179

GREAT BRITAIN—Continued

No.	Date	From and to whom	Subject	Page
	1918 July 26	To the British Ambassador	Same subject. It is the expectation of the Department that industrial as well as administrative loans will be made.	180
512	July 30	To the Ambassador in Great Britain (tel.)	Same subject. Summary of statement given to the press concerning formation of American group and its agreement with the Government.	181
[Enclosure]	Aug. 14	From the British Secretary of State for Foreign Affairs to the American Ambassador	Same subject. Assents in principle to the proposal to constitute a new four-power group.	189
9710	Aug. 16	From the Ambassador in Great Britain	Same subject. Transmits British note of Aug. 14.	188
883	Aug. 21	To the Ambassador in Great Britain (tel.)	Same subject. Expresses hope that the British Government will be disposed to cooperate in the proposed consortium.	191
1280	Aug. 22	From the Ambassador in Great Britain (tel.)	Same subject. The British Government is disposed to assent in principle to the proposed new four-power group.	191
1056	Aug. 28	To the Ambassador in Great Britain (tel.)	Opium and morphine traffic in China. Instruction to inquire whether Foreign Office contemplates any measure to prevent the revival of the opium traffic in China.	210
1616	Sept. 4	From the Ambassador in Great Britain (tel.)	Same subject. The British Government disapproves of the purchase by the Chinese Government of opium stocks and hopes it may be persuaded to abandon the transaction.	211
	Sept. 6	Report of the American-Canadian Fisheries Conference, 1918	American-Canadian Fisheries Conference. Report on all phases of the fishing industry considered by the conference during its hearings; conclusions; suggested solution of problems of mutual interest.	439
1347	Sept. 13	To the Ambassador in Great Britain (tel.)	Opium and morphine traffic in China. Instruction to inform the Foreign Office that the U. S. Government will make representations to the Chinese Government, and to express the hope that the British Government will do likewise.	212
2246	Sept. 24	From the Ambassador in Great Britain (tel.)	Same subject. The British Minister at Peking has been instructed to protest strongly against the recent opium transaction.	212

GREAT BRITAIN—Continued

No.	Date	From and to whom	Subject	Page
277	1918 Oct. 8	To the British Chargé	China—International financial consortium. Restates the attitude of the U. S. Government; encloses memorandum in reply to the questions raised by the other interested governments.	193n
1878	Oct. 8	To the Ambassador in Great Britain (tel.)	Same subject. <i>Résumé</i> of the note and memorandum of even date to representatives of France, Great Britain, Japan, and China.	196n
3323	Dec. 7	To the Chargé in Great Britain (tel.)	Liberia—Financial affairs. Quotes memorandum to the British and French Embassies in connection with the credit established for Liberia, enumerating the steps to be taken by the United States in converting the Liberian loan of 1912 and administering Liberian affairs.	545
4796	Dec. 21	From the Ambassador in Great Britain (tel.)	Same subject. The British Government suggests that the plan replacing the present method of administering Liberian finances be considered at the Peace Conference.	546

GUATEMALA

1918 Jan. 2	From the Chargé in Guatemala	Earthquake. Brief narrative covering earthquake disaster suffered by Guatemala City.	481
Jan. 13	From the Chargé in Guatemala (tel.)	Same subject. Information regarding destitute Americans.	483
Jan. 16	From the Chargé in Guatemala (tel.)	Same subject. Earthquakes continue; relief work under way.	483
Jan. 17	From the Chargé in Guatemala (tel.)	Costa Rica—Political affairs. Hasty examination failed to confirm report that <i>Izabel</i> carried munitions from Guatemala to Costa Rica.	232
Jan. 19	To the Chargé in Guatemala (tel.)	Earthquake. Authorized to arrange passage for destitute Americans; Red Cross will supply transportation from port to homes.	483
Jan. 24	To the Chargé in Guatemala	Same subject. Department commends activity in earthquake relief.	484
Feb. 1	From the Chargé in Guatemala (tel.)	Same subject. Brief report of conditions after disaster; quakes continue.	484
Feb. 13	From the Minister in Guatemala (tel.)	Same subject. Joint Committee American and Guatemalan Red Cross arranging program to clean city; President promises cooperation.	484

GUATEMALA—Continued

No.	Date	From and to whom	Subject	Page
	1918 Mar. 19	To the Minister in Guatemala (tel.)	Same subject. Red Cross can not ex-pend more than additional \$50,000 in Guatemalan relief; Guatemalan Government responsible for safety and health of citizens.	484
	Mar. 23	From the Minis- ter in Guate- mala (tel.)	Same subject. President expresses appreciation of aid given by Red Cross; tentative date for withdrawal American Red Cross is May 1.	485
	Apr. 25	To the Minister in Guatemala (tel.)	Costa Rica—Political affairs. Transmits text of telegram of April 23 to the Chargé in Costa Rica, denying any intention of recognizing Tinoco régime.	257n
	May 24	To the Minister in Guatemala (tel.)	Earthquake. Red Cross desires that relief work be closed and American personnel returned to United States on June 1.	486
	Sept. 13	To the Minister in Guatemala (tel.)	Costa Rica—Political affairs. Department informed Casa Miglia on way to Guatemala to obtain arms for Tinoco; instructions to intimate to Guatemala that Department hopes he will not succeed.	267
	Sept. 18	From the Minis- ter in Guate- mala (tel.)	Same subject. Casa Miglia is ac-credited as Costa Rican Chargé; shall intimate to President as instructed; have warned consular agent against permitting ship-ments of arms on American ves-sels.	267
	Sept. 29	From the Minis- ter in Guate- mala (tel.)	Same subject. President Cabrera assures he will not allow purchase of arms for Tinoco.	268

HAITI

63	1918 May 24	From the Chinese Minister	Protection of Chinese interests in the Dominican Republic and Haiti by American diplomatic and consular officers. Requests that consent of Governments of Haiti and Dominican Republic be secured for the United States to take charge of Chinese interests and issue passports to Chinese citizens in those countries.	397
	June 4	To the Minister in Haiti	Same subject. Instruction to re-quest the consent of Haiti to take charge of Chinese interests.	398n
66	June 12 June 15	Constitution From the Chinese Minister	Constitution of June 12, 1918. Protection of Chinese interests in Dominican Republic and Haiti by American diplomatic and consular officers. Requests confirmation of understanding that present privilege of transit through the United States to China will not be affected by new instructions.	487 398

LIST OF PAPERS

HAITI—Continued

No.	Date	From and to whom	Subject	Page
	1918 June 25	From the Minister in Haiti (tel.)	Same subject. Permission granted to take charge of Chinese interests and issue passports.	399
80	Aug. 14	To the Chinese Minister	Same subject. Department of Labor has made no change in the regulations governing transit of Chinese across the United States.	400

HONDURAS

	1913 Undated [Rec'd Oct. 11]	From the Honduran Minister	Honduran-Nicaraguan boundary dispute. Brief history of dispute, 1894-1913.	11
8	Dec. 2	To the Minister in Nicaragua	Same subject. Good offices of the United States have been requested by Honduras; the United States would view with satisfaction settlement of misunderstanding.	13
[Enclosure]	1914 Jan. 21	To the Minister in Nicaragua (tel.)	Same subject. Instruction to cable status of representations made pursuant to Department's Dec. 2.	13
	Jan. 28	From the Nicaraguan Minister of Foreign Affairs to the American Minister	Same subject. Gives reasons for the nonacceptance of arbitral award of King of Spain; encloses copies of notes exchanged between the Honduran and Nicaraguan Ministers of Foreign Affairs.	14
46	Jan. 28	From the Minister in Nicaragua	Same subject. Transmits Nicaraguan note of Jan. 28, 1914.	14
	1918 July 2	From the Chargé in Honduras (tel.)	Same subject. Nicaraguan troops reported invading Honduras as far as Las Trojas; Honduras asks good offices of the United States to prevent war; would accept offer of mediation.	20
	July 4	To the Minister in Nicaragua (tel.)	Same subject. Instruction to request full information regarding report of Nicaraguan invasion of Honduras.	21
	July 8	From the Minister in Nicaragua (tel.)	Same subject. Nicaragua claims that only revenue agents sent to Las Trojas; also that this is recognized Nicaraguan territory.	21
	July 8	To the Chargé in Honduras (tel.)	Same subject. Instruction to inform Honduras that the United States is investigating truth of rumors of invasion; will give careful consideration to request of Honduras for exercise of good offices toward settlement of boundary dispute.	22

HONDURAS—Continued

No.	Date	From and to whom	Subject	Page
	1918 July 12	To the Chargé in Honduras (tel.)	Same subject. Instruction to inform Honduras that President of Nicaragua claims Las Trojas, Potrerillos, and La Comunidad as Nicaraguan territory, and states that only revenue guard entered it to suppress smuggling; is willing to submit boundary question to U. S. Chief Justice of Supreme Court as arbitrator. The United States is willing to use its good offices.	23
	July 16	From the Chargé in Honduras (tel.)	Same subject. Honduras desires mediation of the United States and sets forth five points as basis of arbitration.	23
	July 17	To the Minister in Nicaragua (tel.)	Same subject. Instruction to use efforts to prevail upon President Chamorro for withdrawal Nicaraguan troops from disputed zone; also to investigate activities of Maximo Rosales.	24
	July 22	From the Minister in Nicaragua (tel.)	Same subject. President Chamorro says all revenue guard removed from vicinity Las Trojas. Rosales apparently not engaged in revolutionary activities against Honduras; has gone to Salvador.	25
	July 29	From the Chargé in Honduras (tel.)	Same subject. Nicaraguan Legation in Honduras ordered to cease discussion of boundary question after July 31; important that the United States take firm attitude toward both Governments.	25
	July 30	From the Nicaraguan Chargé	Same subject. Nicaragua's position on the question of the award of the King of Spain.	25
	July 31	From the Honduran Minister	Same subject. Thanks the United States for its offer of good offices; restates position of Honduras regarding the award of the King of Spain.	28
	Aug. 12	From the Minister in Nicaragua (tel.)	Same subject. President Chamorro intends to make another effort through the Department to bring about settlement which is being held up by Honduras because of its adherence to arbitral award of King of Spain.	29
	Aug. 17	From the Minister in Nicaragua (tel.)	Same subject. Nicaraguan Minister of Foreign Affairs states Honduras sending soldiers to Danli; Nicaraguan Minister to Honduras instructed to withdraw to Salvador.	29
	Aug. 17	From the Honduran Minister	Same subject. Quotes telegram from President Bertrand warning of consequences of invasion by Nicaragua.	29

HONDURAS—Continued

No.	Date	From and to whom	Subject	Page
	1918 Aug. 17	To the Minister in Nicaragua (tel.)	Same subject. Instruction to ascertain truth of report that Nicaraguan troops have crossed Honduran frontier, and cable information; also to continue efforts to secure withdrawal from disputed area.	30
	Aug. 17	To the Chargé in Honduras (tel.)	Same subject. Requests cable report as to truth of information that Nicaraguan troops have again crossed Honduran boundary; if correct, Honduran Government to be informed that Legation at Managua is using best efforts to secure withdrawal.	30
	Aug. 20	From the Minister in Nicara-gua (tel.)	Same subject. President Chamorro denies sending troops across border; he earnestly desires settlement.	31
	Aug. 20	From the Chargé in Honduras (tel.)	Same subject. Honduras holds disputed territory to be unquestionably Honduran; the United States should insist on resumption of negotiations for an arbitration treaty.	31
	Aug. 21	To the Chargé in Honduras (tel.) <i>Mutatis mutan-dis</i> , to Nicara-gua	Same subject. Offers good offices of the Department and suggests appointment of representative to an informal conference in Washington.	32
	Aug. 22	From the Chargé in Honduras (tel.)	Same subject. President accepts offer of the Department; will order withdrawal of troops to Danli as soon as Nicaragua does likewise.	33
	Aug. 23	From the Minister in Nicaragua (tel.)	Same subject. Nicaragua accepts offer of the Department's good offices; insists upon withdrawal from disputed zone by Honduras, and that no patrols be sent out by either Government.	33
	Aug. 28	To the Chargé in Honduras (tel.) <i>Mutatis mutan-dis</i> , to Nicara-gua	Same subject. Expression of satisfaction at acceptance of good offices by Honduran Government; statement that Nicaragua has also accepted. Instruction to suggest that Honduras designate representative at early date.	34
	Sept. 2	From the Chargé in Honduras (tel.)	Same subject. Honduran representative will be Bonilla, now on special mission in the United States; documents by next mail.	34
	Sept. 11	From the Minister in Nicaragua (tel.)	Same subject. Nicaraguan Minister at Washington appointed Nicaraguan representative in boundary question.	34

HONDURAS—Continued

No.	Date	From and to whom	Subject	Page
	1918 Oct. 26	From the Minister in Honduras (tel.)	Costa Rica—Political affairs. President Bertrand requested to join Nicaragua in movement to overthrow Tinoco; asks attitude of the United States.	268
35	Oct. 28	From the Minister in Honduras	Same subject. President Bertrand will take no action on Nicaraguan proposition to oust Tinoco until he knows attitude of the United States; Nicaraguan Minister on special mission is endeavoring to enlist aid in that movement.	268
	Nov. 4	To the Minister in Honduras (tel.)	Same subject. Instruction to inform President Bertrand that the United States can not approve armed activities against Costa Rica.	270

ITALY

	1918 Dec. 5	To the Ambassador in Italy	Protection of American trade-marks. Instruction to bring to the attention of the Italian Government apparent violations of the international trade-marks convention.	2n
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JAPAN

	1917 Dec. 28	To the Ambassador in Japan (tel.)	Institution of Japanese civil administration in the Leased Territory of Kiaochow. Instruction to ascertain facts from Japanese Government regarding reported aggression on China's sovereignty.	221
	1918 Jan. 20	From the Ambassador in Japan (tel.)	Same subject. The Japanese Vice Minister for Foreign Affairs states that civil administration under jurisdiction of Ministry of War replaces military control, but differs in meaning from Chinese and English interpretation of the term.	222
	Mar. 15	From the Ambassador in Japan (tel.)	China—Loan negotiations: Currency reorganization and loan and currency reform. Baron Sata-tani contemplates visit to China; commented on financial situation in an interview.	145

JAPAN—Continued

No.	Date	From and to whom	Subject	Page
3	1918 July 10	To the Japanese Ambassador	China—International financial consortium. Advises that it has been decided to take up the matter of making a loan to China; encloses banker's letter of July 8 and Department's reply of July 9.	175n
	July 11	To the Ambassador in Japan (tel.)	Same subject. Movement to form four-power consortium to make loan to Chinese Government: relinquishment of options is proposed condition of membership; sovereignty of China must not be impaired.	176n
82	July 15	To the Ambassador in Japan	Same subject. Transmits copy of letter from bankers in New York and Chicago, dated July 8, and Department's answer of July 9, with reference to proposed consortium.	177n
	July 17	From the Japanese Ambassador	Same subject. Transmitted to Japanese Government the Department's correspondence regarding loan to China.	179
	July 23	To the Ambassador in Japan (tel.)	Same subject. Instruction to communicate substance of Department's telegram of July 11 to Foreign Office and say that the U. S. Government would be pleased to know that the Japanese Government agrees to cooperate.	180
	July 30	To the Ambassador in Japan (tel.)	Same subject. Summary of statement given the press concerning formation of American group and its agreement with the Department.	181n
	Aug. 26	From the Ambassador in Japan (tel.)	Same subject. Transmits a memorandum from the Foreign Office requesting further information concerning intentions of the United States.	191
[Quoted in tel.]	Aug. 26[?]	From the Japanese Foreign Office to the American Ambassador	Same subject. Requests further information concerning intentions of the United States.	191
	Oct. 8	To the Japanese Ambassador	Same subject. Restates the attitude of the U. S. Government; encloses memorandum in reply to the questions raised by the other interested governments.	193n
	Oct. 8	To the Ambassador in Japan (tel.)	Same subject. Résumé of the note and memorandum of even date to representatives of France, Great Britain, Japan, and China.	196
Undated [Rec'd Oct. 25]		From the Japanese Embassy	China—Political affairs. Proposes that Japan, Great Britain, France, Italy, and the United States make joint representation to leaders in North and South China, urging importance of reconciliation.	114

JAPAN—Continued

No.	Date	From and to whom	Subject	Page
	1918 Undated [Rec'd Oct. 30]	From the Japanese Embassy	China—Railway concessions. Substance of agreement between China and Japan for the construction of railways by Japan in Manchuria, Mongolia, and Shantung.	205
	Nov. 16	To the Japanese Embassy	China—Political affairs. Concurs with the views of the Japanese Government regarding wisdom of joint representations to China and suggests offering financial assistance to reunited Government.	120
	Nov. 25	From the Japanese Embassy	Same subject. Japanese Government concurs with the Department's suggestion concerning financial assistance to Chinese Government and has so instructed its representative in Peking.	121
	Dec. 19	From the Ambassador in Japan (tel.)	China—Loan negotiations: Currency reorganization and loan and currency reform. Baron Sakatani has been appointed financial adviser to the Chinese Government, and makes statement of his plans.	162

LIBERIA

[Enclosure]	1918 Jan. 11	From the Liberian Secretary of State to the American Chargé	Financial affairs. Transmits memorandum on the financial situation, prepared by the Secretary of the Treasury; expresses conviction that appeal should be made to the United States to come to relief of Liberia.	510
169	Jan. 15	From the Chargé in Liberia	Same subject. Report on the desperate financial situation of Liberia; encloses letter from the manager of the Bank of British West Africa, Ltd., to the President of Liberia making suggestions for improvement of situation, and letter of Jan. 11, from the Liberian Secretary of State.	505
161	Feb. 7	From the British Chargé to the Assistant Secretary of State	Same subject. Trade is free to all except firms on statutory list; shipping to Liberia not limited but will probably be curtailed because of tonnage shortage; British Government wishes to know whether the United States would be inclined to consider assistance to Liberia by the United States, Great Britain, and France.	513

LIBERIA—Continued

No.	Date	From and to whom	Subject	Page
[Enclosure]	1918 Mar. 30	From the Liberian Secretary of State to the American Chargé	Same subject. Transmits report of Liberian Secretary of the Treasury concerning financial reforms instituted by Liberia.	517
	Mar. 31	From the Liberian Consul General at Baltimore	Same subject. Requests that the United States come to the rescue of Liberia by a loan of \$5,000,000; enumerates ways in which Liberia is prepared to assist Allies.	514
[Enclosure]	May 9	From the Financial Adviser of Liberia to the American Chargé	Same subject. Comments at length on report of Secretary of the Treasury.	520
210	May 10	From the Chargé in Liberia	Same subject. Report on progress of reforms suggested to Liberia in 1917. Transmits note from the Liberian Secretary of State enclosing report of the Secretary of the Treasury concerning financial reforms instituted by Liberia, and letter of May 9, from the Financial Adviser.	517
213	May 15	From the Chargé in Liberia	Same subject. Transmits a draft agreement for financial reform in Liberia proposed by the manager of the Bank of British West Africa; Liberian Government anxiously awaiting decision of the Department on its appeal for aid.	521
[Enclosure]	May 29	From the Financial Adviser of Liberia to the American Chargé	Same subject. Discusses a plan for the collection of internal revenue and effective administration of the interior; encloses letter to manager of the Bank of British West Africa.	527
	June 1	To the Secretary of the Treasury	Same subject. Transmits note from the Liberian Consul General at Baltimore, applying for a loan of \$5,000,000 from the United States, and commends the application.	524
220	June 12	From the Chargé in Liberia	Same subject. Transmits letter of May 29 from the Financial Adviser, concerning a plan for the collection of internal revenue and effective administration of the interior. Comments thereon.	526
	July 11	To the Secretary of the Treasury	Same subject. Transmits copy of despatch No. 213 of May 15, from the Chargé in Liberia; and urges prompt financial relief for Liberia.	531

LIBERIA—Continued

No.	Date	From and to whom	Subject	Page
9	July 15 1918	From the Consul at London	Same subject. Transmits a draft of a supplemental agreement between Liberia and the Bank of British West Africa, as submitted to the British Foreign Office, to be later forwarded to France and the United States.	531
	July 25	To the Secretary of the Treasury	Same subject. Urges financial assistance be given Liberia by the United States to prevent her domination by the Bank of British West Africa.	533
	Aug. 5	To the Secretary of the Treasury	Same subject. Transmits copy of despatch No. 9 of July 15, from Consul at London, as further evidence of danger in Liberian financial situation.	534
	Aug. 12	To the Chargé in Liberia (tel.)	Same subject. Asks what aid Liberia has received recently from the Bank of British West Africa.	535
	Aug. 14	From the Chargé in Liberia (tel.)	Same subject. Liberia has received no financial assistance from the Bank of British West Africa other than that under agreement of Feb. 21, 1917; advances will cease by Oct. 1.	535
	Aug. 16	To the Secretary of the Treasury	Same subject. Transmits telegram from Chargé in Liberia stating that Liberia has received no financial assistance from the Bank of British West Africa other than that under agreement of Feb. 21, 1917.	535n
	Aug. 27	From the Assistant Secretary of the Treasury	Same subject. The President has approved establishment of a credit for \$5,000,000 in favor of Liberia; information requested as to advances to be made to Liberia.	535
	Sept. 9	To the Secretary of the Treasury	Same subject. As a matter of policy Department desires to announce immediately \$5,000,000 credit established in favor of Liberia; necessary inquiries being made as to validity of such obligations of Liberia as may be required; encloses Department memorandum showing financial status of Liberia.	536
	Sept. 9	From the Assistant Secretary of the Treasury	Same subject. Requests that Liberia be advised of the establishment of a credit of \$5,000,000.	537
	Sept. 12	To the Chargé in Liberia (tel.)	Same subject. Treasury has established credit of \$5,000,000 in favor of Liberia; before any part is available Department must have certain documents; Liberian Government to be informed.	537

LIBERIA—Continued

No.	Date	From and to whom	Subject	Page
[Enclosure]	1918 Sept. 17	From the American Chargé to President Howard of Liberia	Same subject. Advises of establishment of \$5,000,000 credit and requests certain documents required by Department of State.	539
[Enclosure]	Sept. 19	From President Howard of Liberia to the American Chargé	Same subject. Expresses appreciation of Liberian Government for establishment of credit.	540
[Enclosure]	Sept. 20	From the Liberian Secretary of State to the American Chargé	Same subject. Expresses appreciation of Liberian Government for establishment of credit and transmits information and documents required by Department of State.	540
252	Sept. 24	From the Chargé in Liberia	Same subject. Transmits letter of Sept. 17 to President Howard, letter of Sept. 19 from President Howard, and letter of Sept. 20 from the Liberian Secretary of State. Special session of Liberian Legislature to be called.	537
	Oct. 1	From the Chargé in Liberia (tel.)	Same subject. Itemized statement of the public debt of Liberia and the proposed expenditure of the \$5,000,000 credit.	542
	Oct. 17	From the Secretary of the Treasury	Same subject. Submits plan of the Treasury for advances to Liberia; requests views of the Department.	543
	Nov. 11	From the Assistant Secretary of the Treasury	Same subject. Suggests that a one-power general receivership under control of United States be established in Liberia instead of the three-power receivership now in existence.	544
3323	Dec. 7	To the Chargé in Great Britain (tel.) The same to France	Same subject. Quotes memorandum to the British and French Embassies in connection with the credit established for Liberia, enumerating the steps to be taken by the United States in converting the Liberian loan of 1912 and administering Liberian affairs.	545
4796	Dec. 21	From the Ambassador in Great Britain (tel.)	Same subject. The British Government suggests that the plan replacing the present method of administering Liberian finances be considered at the Peace Conference.	546
6568	Dec. 30	From the Chargé in France (tel.)	Same subject. Quotes extracts from note of the Foreign Office concerning the plan of the Department to administer the finances of Liberia, and inviting the United States to collaborate with France and Great Britain.	547

MEXICO

No.	Date	From and to whom	Subject	Page
	1917 Nov. 24	Mexican decree	Claims of American citizens against Mexico. Decree establishing commission to handle claims for damages resulting from revolutionary movements from 1910 to 1917.	793
622	Nov. 27	From the Ambassador in Mexico	Same subject. Discusses principal features of decree of Nov. 24 providing for a commission to pass upon claims for damages growing out of Mexican revolution from 1910 to 1917.	792
	Nov. 30	From the Mexican Undersecretary of State for Foreign Affairs	Commercial relations. Don Luis Cabrera appointed special commissioner to negotiate, jointly with Mexican Ambassador, for the rescission of restrictive foreign trade measures ordered by the United States as affecting Mexico.	601
A-928	Dec. 18	From the Mexican Ambassador	Border disturbances. Quotes report of commander at Ciudad Juárez forwarded by Mexican Department of State; woman killed and two men wounded by American guards; requests punishment of guilty party and prevention of repetition of such acts.	548
663	Dec. 24	To the Chargé in Mexico (tel.)	Same subject. Quotes statement given to the press, denying that the United States is making preparations to cope with disturbances in the Tampico oil district; requests publication in Mexico.	549
652	Dec. 28	From the Chargé in Mexico (tel.)	Commercial relations. <i>El Universal</i> repeatedly claims that Mexican food commission sent to the United States has failed and that no corn is being shipped into Mexico; public in doubt as to real situation.	601
676	1918 Jan. 3	To the Chargé in Mexico (tel.)	Same subject. Instruction to make statement to press to effect that Mr. Cabrera and the Mexican Ambassador are responsible for delay of negotiations of food commission.	601
	Jan. 3	From the Consul at Guaymas (tel.)	Protection of Americans. Massacre by Yaqui Indians near Empalme on Jan. 2; recommended that passports be refused for Mexican west coast points south of Hermosillo and that naval vessel be kept in these waters.	667
324	Jan. 4	To the Mexican Ambassador	Border disturbances. Note of Dec. 18, has been sent to the War Department for investigation and appropriate action.	549

MEXICO—Continued

No.	Date	From and to whom	Subject	Page
681	1918 Jan. 4	To the Chargé in Mexico (tel.)	Protection of Americans. Instruction to request Mexican Government to take prompt steps to suppress Indians in Sonora and to furnish adequate military protection to Americans residing there.	668
673	Jan. 5	From the Chargé in Mexico (tel.)	Commercial relations. Statement in telegram No. 676 given to press and printed in all papers except <i>El Universal</i> .	602
671	Jan. 5	From the Chargé in Mexico (tel.)	Protection of Americans. Foreign Office informs that military commander in region of Yaqui Valley has been ordered to afford protection to Americans.	668
685	Jan. 5	To the Chargé in Mexico (tel.)	Same subject. Instruction to suggest to Mexican Government that troops be sent immediately to Sonora to restore order, and to intimate that passage could be secured over American territory.	668
675	Jan. 6	From the Chargé in Mexico (tel.)	Commercial relations. <i>El Universal</i> states that Nieto, when asked reason for delay in instructing Ambassador Bonillas, replied he could say nothing until he had conferred with President Carranza who is absent from the city.	602
676	Jan. 6	From the Chargé in Mexico (tel.)	Same subject. Nieto and Pani reported ready to leave for the United States to participate in negotiations; plans are tentative pending final approval by President Carranza.	602
677	Jan. 6	From the Chargé in Mexico (tel.)	Same subject. Acting Minister for Foreign Affairs states that one of objects of Nieto's visit to the United States is in connection with pending conference.	602
683	Jan. 9	From the Chargé in Mexico (tel.)	Protection of Americans. Secretary of State for Foreign Affairs states that Department's suggestion of Jan. 5 has been referred to the Subsecretary of War and Marine for such action as deemed opportune.	669
	Jan. 10	To the Consul at Guaymas (tel.)	Same subject. Situation at Guaymas complicated by attitude of local authorities in matter of neutrality, hence Department not disposed to recommend to Navy that vessel be stationed at Guaymas; if Americans in dire distress, Department would consider advisability of sending Marines to Guaymas.	669
	Jan. 14	From the Vice Consul at Mexico, D. F.	Financial affairs. Text of law of payments, decreed Dec. 24, 1917.	638

MEXICO—Continued

No.	Date	From and to whom	Subject	Page
710	1918 ¹ Jan. 15	From the Chargé in Mexico	Claims of American citizens against Mexico. Transmits text of decree prescribing regulations for carrying into effect the presidential decree creating a commission to pass upon claims for damages growing out of Mexican revolution.	796
A-1144	Jan. 22	From the Mexican Ambassador	Border disturbances. Mexican Consul at Tucson, Ariz., reports that an armed revolutionary expedition of Yaqui Indians is being organized, and his requests to U. S. Federal officials for assistance have met with no results; requests that investigation be made.	550
716	Jan. 23	To the Chargé in Mexico (tel.)	Protection of American oil interests. Department informed that under Art. 27 of Constitution foreign companies can not exploit natural riches of country; American oil companies refused permits to drill on lands owned by them; instruction to take up matter with appropriate authorities.	687
720	Jan. 25	From the Chargé in Mexico (tel.)	Border disturbances. <i>El Demócrata</i> published an extra edition stating that the United States is perfecting arrangements for armed intervention in Mexico.	551
726	Jan. 26	To the Chargé in Mexico (tel.)	Same subject. Instruction to announce publicly that story in despatch 720 is sheer fabrication and propaganda to disturb friendly relations.	552
351	Jan. 26	To the Mexican Ambassador	Same subject. Quotes report of War Department on subject of Ambassador's note of Dec. 18, 1917.	552
725	Jan. 27	From the Chargé in Mexico (tel.)	Protection of American oil interests. Note from Pani states that Art. 27 of the Constitution does not prohibit foreign capital from being invested in oil industry, but requires foreign capital to renounce its nationality and organize as Mexican companies.	687
	Feb. 4	To the Mexican Ambassador	Border disturbances. Copies of notes of Jan. 22 and 23 have been sent to the Secretary of War and the Attorney General for appropriate action.	552
	Feb. 8	From the French Ambassador	Claims of American citizens against Mexico. France is of the opinion that decree of Nov. 24, 1917, does not offer adequate guarantees to foreign claimants; requests to be informed of views of the United States.	800

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MEXICO—Continued

No.	Date	From and to whom	Subject	Page
A-1294	1918 Feb. 11	From the Mexican Ambassador	Border disturbances. The Mexican Foreign Office protests against the crossing of American forces into Mexico on Dec. 29, 1917.	553
[Enclosure]	Feb. 14	From the U. S. Attorney for the District of Arizona to the Attorney General	Same subject. Report of investigation into activities of disaffected Mexicans in Tucson and Phoenix.	554
774	Feb. 17	To the Chargé in Mexico (tel.)	Protection of American oil interests. Instruction to bring to attention of President Carranza chaotic conditions at Tampico and to express hope that necessary protection will be afforded American oil interests.	688
	Feb. 19	From the Consul at Tampico (tel.)	Same subject. Reports destruction by fire of bridges on Huasteca Railroad and other property damage, probably by Pelaez forces; confiscations by Carranza troops.	688
797	Feb. 20	From the Chargé in Mexico	Same subject. Transmits copy of the argument presented by Gen. Candido Aguilar, supporting the proposed petroleum law which he submitted to Legislature, with a view to conforming to terms of Art. 27 of new Constitution.	689
798	Feb. 20	From the Chargé in Mexico	Financial affairs. Transmits letter from Mr. George W. Cook, an American citizen in Mexico, expressing the belief that the new law of payments will result in injury and injustice to American citizens, and requesting advice from the Department.	642
806	Feb. 25	From the Ambassador in Mexico (tel.)	Protection of American oil interests. Provisions of new decree fixing taxes on petroleum lands.	698
795	Feb. 25	To the Ambassador in Mexico (tel.)	Same subject. Refers to telegram from Tampico, Feb. 19, and instructs to request Mexican Government to return goods confiscated or compensate companies concerned.	698
391	Feb. 26	To the Mexican Ambassador	Border disturbances. Transmits copy of letter from U. S. Attorney for the District of Arizona to the Attorney General, reporting investigation into activities of disaffected Mexicans in Tucson and Phoenix.	554
807	Feb. 26	From the Ambassador in Mexico (tel.)	Commercial relations. Negotiations which were to have been resumed with Nieto postponed until after Cabinet meeting Thursday.	603

MEXICO—Continued

No.	Date	From and to whom	Subject	Page
804	1918 Feb. 27	To the Ambassador in Mexico (tel.)	Protection of American oil interests. Oil interests assert new decrees will wreck companies in Tampico fields, paralyze war contracts, and interfere with Allied naval operations; appropriate representations for suspension of decree left to own discretion.	698
805	Feb. 28	To the Ambassador in Mexico (tel.)	Same subject. Requests views from time to time on situation in oil fields and on political situation in Mexico City.	699
815	Mar. 1	From the Ambassador in Mexico (tel.)	Commercial relations. Learned unofficially that Cabinet did not approve Nieto's conduct of the negotiations; will try to remove apparent misunderstanding.	603
820	Mar. 1	From the Ambassador in Mexico (tel.)	Protection of American oil interests. Unable to estimate effect new decree will have upon oil companies; has requested 30 days' suspension of application of decree but no reply can be given until next cabinet meeting; apprehension lest if taxes are not paid, Government will refuse clearance of oil ships.	699
815	Mar. 1	From the Ambassador in Mexico	Same subject. Transmits decree fixing taxes on petroleum lands; comments thereon.	700
822	Mar. 4	From the Ambassador in Mexico (tel.)	Commercial relations. Aguilar to continue trade negotiations assisted by Pani and Nieto; apparent lack of desire on part of Mexican officials to complete trade negotiations with the United States.	603
823	Mar. 5	From the Ambassador in Mexico (tel.)	Same subject. President Carranza and Cabinet unanimously rejected memorandum of the proposed Treasury arrangement for the exportation of gold to Mexico; President Carranza will handle further discussions directly.	604
2090	Mar. 5	To the French Ambassador	Claims of American citizens against Mexico. No definite position can be taken by the United States until further information is received from Mexico with reference to certain articles of the decree of Nov. 24, 1917; information has been requested.	800
819	Mar. 6	From the Ambassador in Mexico	Commercial relations. Transmits formal statement given to press by Secretary of Government to effect that Mexican Government rejects tentative gold export arrangement; encloses newspaper clippings in praise and criticism of Nieto's activities; committee headed by Aguilar will continue negotiations.	605

MEXICO—Continued

No.	Date	From and to whom	Subject	Page
403	1918 Mar. 8	To the Mexican Ambassador	Border disturbances. Result of investigation of Attorney General regarding organization of Yaqui Indians at Tucson.	555
[Quoted in tel.]	Mar. 8[?]	From the Mexican Minister for Foreign Affairs to the American Ambassador	Commercial relations. Mexican Government rejects results of conference at Washington with regard to trade intercourse, and communicates the basis for further negotiations which Mexican Government considers equitable.	616
828	Mar. 8	From the Ambassador in Mexico (tel.)	Same subject. Quotes note of Mar. 8[?] from Minister of Foreign Affairs.	616
831	Mar. 8	From the Ambassador in Mexico (tel.)	Same subject. Requests to be informed if Department wishes to renew negotiations in Mexico; believes negotiations should be resumed in Washington, although President Carranza will not give his agents full power and everything will have to be referred to him for approval.	616
470	Mar. 8	To the Ambassador in Mexico	Claims of American citizens against Mexico. Discusses presidential decree providing for the appointment of a commission to pass upon claims, and requests additional information on several provisions.	801
264	Mar. 12	From the British Ambassador	Same subject. Inquires as to views of the United States upon effect of decree of Nov. 24, 1917.	806
832	Mar. 13	From the Ambassador in Mexico	Protection of American oil interests. Foreign Office states matter of confiscation of American goods and money at Tampico brought to attention of Secretary of War so that orders might be issued to afford adequate guarantees and to avoid further depredations.	704
883	Mar. 15	To the Ambassador in Mexico (tel.)	Commercial relations. Enumerates considerations governing attitude of the United States toward renewal of negotiations on export of foodstuffs and gold.	617
883	Mar. 15	To the Ambassador in Mexico (tel.)	Protection of American oil interests. U. S. Government, respecting property rights of Mexican citizens in the United States, expects reciprocal treatment of American citizens in Mexico; can not acquiesce in any action by Mexican Government to appropriate legitimate vested American interests.	704

MEXICO—Continued

No.	Date	From and to whom	Subject	Page
	1918 Mar. 16	From the French Ambassador	Financial affairs. French Government believes foreign capital put in jeopardy by creation of one bank of issue under Carrancista Constitution; asks what measures the U. S. Government would be willing to take.	644
872	Mar. 17	From the Ambassador in Mexico (tel.)	Protection of American oil interests. Official statement of Secretary of Fomento on Art. 27 of Constitution seems to indicate intention of Mexican Government to annul all private property rights to petroleum.	705
874	Mar. 18	From the Ambassador in Mexico (tel.)	Commercial relations. Reply to Foreign Office has been made along lines indicated by Department's 883 of Mar. 15.	619
[Enclosure]	Mar. 18	From the American Ambassador to the Mexican Secretary of State for Foreign Affairs	Same subject. Acknowledges note advising that results of Washington negotiations regarding export restrictions are unacceptable, and expresses desire to cooperate and to renew negotiations at any time.	622
844	Mar. 19	From the Ambassador in Mexico	Same subject. Transmits an editorial from <i>El Pueblo</i> , justifying President Carranza's refusal to approve Mr. Nieto's arrangements for gold exports from the United States.	620
895	Mar. 19	To the Ambassador in Mexico (tel.)	Protection of American oil interests. Views of the U. S. Government on decree of Feb. 19, including statement that necessity may arise to impel it to protect the property of its citizens in Mexico.	705
30	Mar. 19	To the British Ambassador	Claims of American citizens against Mexico. Further information has been requested from the Mexican Government with relation to meaning of certain articles of decree of Nov. 24, 1917; no definite position will be taken respecting decree until Department is more fully advised in premises.	806
852	Mar. 20	From the Ambassador in Mexico	Protection of American oil interests. Transmits the opinion of the Secretary of Agriculture and Fomento as to interpretation of Art. 27 of Constitution of 1917 and suggests that any proposed representations be delayed until the bill to put this article into effect seems likely to be passed by Mexican Congress.	707
901	Mar. 21	To the Ambassador in Mexico (tel.)	Commercial relations. Federal Reserve Board requests opinion as to best method of minimizing gold exports into Mexico; tentative plan embodied in quoted memorandum.	621

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No.	Date	From and to whom	Subject	Page
890	1918 Mar. 21	From the Ambassador in Mexico (tel.)	Protection of American oil interests. Asks what attitude American oil companies will take toward payment of new petroleum taxes; believes that oil companies should exhaust all legal remedies before matter is brought officially to attention of Mexican Government; requests instructions.	711
	Mar. 25	To the Mexican Ambassador	Border disturbances. Returns note No. A-1294 of Feb. 11, to afford opportunity to couch it in terms more consonant with diplomatic usage between friendly nations.	555
909	Mar. 27	From the Ambassador in Mexico (tel.)	Commercial relations. Requests approval of proposed reply to note of Secretary of State for Foreign Affairs asking views of the U. S. Government on bases suggested by the Mexican Government for commercial intercourse.	621
868	Mar. 27	From the Ambassador in Mexico	Same subject. Transmits copy of note of Mar. 18 to the Secretary of State for Foreign Affairs, acknowledging his note advising that the results of the Washington negotiations regarding export restrictions are unacceptable, and expressing a desire to cooperate and renew negotiations at any time.	622
925	Mar. 28	To the Ambassador in Mexico (tel.)	Financial affairs. Refers to desire of French Government for joint representations regarding bank of issue; requests views on measures considered advisable for the United States to take.	644
926	Mar. 28	To the Ambassador in Mexico (tel.)	Commercial relations. Approves proposed reply to the Mexican Government as outlined in dispatch 909, Mar. 27.	623
[Enclosure]	Mar. 29	From the American Ambassador to the Mexican Secretary of State for Foreign Affairs	Claims of American citizens against Mexico. Requests information on certain phases of decree of Nov. 24, 1917, establishing a claims commission.	807
[Enclosure]	Mar. 29	From the Commanding General of the Southern Department to the Adjutant General	Border disturbances. Report on pursuit of Mexican raiders and destruction of Pilares ranch.	556
	Mar. 30	From the Secretary of War	Same subject. Transmits copy of telegram of Mar. 29, from the Commanding General, Southern Department.	556

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No.	Date	From and to whom	Subject	Page
[Enclosure]	1918 Mar. 30	From the American Ambassador to the Mexican Secretary of State for Foreign Affairs	Commercial relations. The United States accepts in principle the bases for commercial intercourse suggested by Mexico, but due to exigencies of war is unable to export certain articles.	623
936	Apr. 1	To the Ambassador in Mexico (tel.)	Protection of American oil interests. Decree reported as recently issued providing that, if statements are not submitted in accordance with Art. 14, owners and lessees will not be permitted to perform any work of development.	712
931	Apr. 2	From the Ambassador in Mexico (tel.)	Same subject. American operators would not be prejudiced against compliance with provisions of new circular which is being sent to the Department.	712
886	Apr. 2	From the Ambassador in Mexico	Claims of American citizens against Mexico. Transmits copy of note of Mar. 29 to Foreign Office, requesting information on certain phases of decree of Nov. 24, 1917, establishing a claims commission.	807
[Enclosure]	Apr. 2	From the American Ambassador to the Mexican Secretary of State for Foreign Affairs	Protection of American oil interests. Formal protest against enforcement of the decree of Feb. 19.	713
889	Apr. 3	From the Ambassador in Mexico	Commercial relations. Transmits copy of his note to the Foreign Office, stating the United States accepts in principle the bases for commercial intercourse suggested by Mexico, but due to exigencies of war unable to export certain articles.	623
890	Apr. 3	From the Ambassador in Mexico	Protection of American oil interests. Transmits copy of note of Apr. 2 to the Secretary of State for Foreign Affairs, protesting against enforcement of the decree of Feb. 19; also Circular No. 5 of the Department of Industry, Commerce, and Labor, clarifying Art. 14 of that decree.	712
A-1580	Apr. 3	From the Mexican Ambassador	Border disturbances. Protests violation of Mexican territory by destruction of Pilares ranch on Mar. 29.	556
504	Apr. 4	To the Ambassador in Mexico	Financial affairs. Instruction to inform Foreign Office that the United States can not be expected to recognize right of Mexico to apply objectionable terms of decree of Dec. 24, 1917, to American citizens.	645

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No.	Date	From and to whom	Subject	Page
948	1918 Apr. 4	To the Ambassador in Mexico (tel.)	Protection of American oil interests. Comments on opinions expressed by the Mexican Secretary of Agriculture and Fomento regarding Art. 27 of the Mexican Constitution, with instruction to enter solemn and emphatic protest if he has spoken for the Mexican Government.	715
[Enclosure]	Apr. 6	From the Mexican Secretary of State for Foreign Affairs to the American Ambassador	Commercial relations. Requests free importation from the United States of articles enumerated on attached list.	624
	Apr. 6	From the Belgian Minister	Claims of American citizens against Mexico. Requests attitude of the United States with reference to decree of Nov. 24, 1917.	807
950	Apr. 8	From the Ambassador in Mexico (tel.)	Protection of American oil interests. Requests instruction if Department desires additional protest to be made.	716
	Apr. 9	To the Belgian Minister	Claims of American citizens against Mexico. Further information has been requested from the Mexican Government with reference to decree of Nov. 24, 1917; no definite position can be taken until information is received.	807
902	Apr. 10	From the Ambassador in Mexico	Commercial relations. Transmits note of April 6 from the Mexican Secretary of State for Foreign Affairs requesting free importation from the United States of articles enumerated on an attached list.	624
A-1620	Apr. 11	From the Mexican Ambassador	Border disturbances. Disavows any intention of injuring susceptibilities of the Government of the United States in his note of Feb. 11.	557
972	Apr. 14	From the Ambassador in Mexico (tel.)	Same subject. Minister for Foreign Affairs believes border difficulties are fomented by enemies of Mexican Government in the United States; Mexico is not seeking a quarrel with the United States; Mexican troops ordered not to fire at persons on American side; hopes similar orders will be given U. S. troops.	557
	Apr. 14	From the Consul at Tampico (tel.)	Protection of American oil interests. Oil companies complaining of threatening attitude of Government troops in southern oil fields; outrage on Americans causing some to leave oil fields; trouble believed outgrowth of border situation.	716

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No.	Date	From and to whom	Subject	Page
442	1918 Apr. 15	To the Mexican Ambassador	Border disturbances. Acknowledges note of Apr. 11; advises that proper investigation will be made of incident therein referred to.	558
A-1667	Apr. 15	From the Consul at Tampico (tel.)	Protection of American oil interests. Outrages by Government forces continue and fields are being abandoned; suspicion prevalent that German influence at work.	716
	Apr. 16	From the Mexican Ambassador	Border disturbances. Reports firing on Mexican soldiers at Guadalupe by American troops; requests matter be brought to attention of proper authorities.	558
	Apr. 17	To the Secretary of War	Same subject. Mexican troops have been given strict orders against firing across American border; advisable to renew instructions to American troops against firing except in self-defense and not to permit them to pursue Mexican bandits farther than the border-line.	559
986	Apr. 17	To the Ambassador in Mexico (tel.)	Same subject. The United States desires to improve border conditions and is giving matter serious consideration with a view to issuance of renewed instructions to military authorities.	560
981	Apr. 17	To the Ambassador in Mexico (tel.)	Commercial relations. Quotes message from Federal Reserve Board requesting opinion as to the feasibility of new plan to decrease exports of gold into Mexico.	626
924	Apr. 17	From the Ambassador in Mexico	Financial affairs. Nothing can be accomplished at present time by individual or joint protest against the law governing the Mexican bank of issue.	626
985	Apr. 17	To the Ambassador in Mexico (tel.)	Protection of American oil interests. Instruction to bring situation in Tampico oil fields to attention of Mexican Government and request protection of American life and property.	716
979	Apr. 18	From the Ambassador in Mexico (tel.)	Commercial relations. Approves plan outlined by Federal Reserve Board in Department's Apr. 17 as desirable and feasible.	626
A-1791	Apr. 19	From the Mexican Ambassador	Border disturbances. Reports activities of several revolutionary leaders on the border of the United States and requests that they be punished for violation of neutrality laws.	560
983	Apr. 19	From the Ambassador in Mexico (tel.)	Protection of American oil interests. Representations made to Mexican Government; General Dieguez ordered to oil fields for protection of interests.	717

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No.	Date	From and to whom	Subject	Page
A-1799	1918 Apr. 20	From the Mexican Ambassador	Border disturbances. <i>La Republica</i> , El Paso, Tex., asserts that the U. S. Government has officially declared it will have nothing to do with the present Mexican administration; declaration of Government's attitude is requested.	561
952	Apr. 24	From the Ambassador in Mexico	Financial affairs. Transmits presidential decree issued Apr. 13, establishing a Federal tax on payments on mortgages signed prior to Apr. 15, 1913.	646
959	Apr. 24	From the Ambassador in Mexico	Same subject. Transmits text of presidential decree of Apr. 13, lifting moratorium on interest charges and on 25 per cent of the principal.	648
958	Apr. 24	From the Ambassador in Mexico	Protection of American oil interests. Transmits regulations of the Department of Hacienda prescribing declarations to be made under Art. 9 of decree of Feb. 19, preliminary to payment of taxes on petroleum lands.	717
997	Apr. 25	To the Ambassador in Mexico (tel.)	Financial affairs. Attitude of the United States toward loan to Mexico by private American banking group.	653
A-1827	Apr. 26	From the Mexican Ambassador	Border disturbances. Reports made by Mexican Consul General at El Paso regarding firing upon Mexican troops at Guadalupe indicate that American troops started the firing.	562
1005	Apr. 27	To the Ambassador in Mexico (tel.)	Same subject. Instruction to point out to the Mexican Government that presence of their augmented forces opposite Big Bend district places in their hands the matter of preventing further raids from the Mexican side.	562
	Apr. 29	To the French Ambassador	Financial affairs. Present time not considered opportune to make representations to Mexico regarding Art. 10 of the bill for the creation of a sole bank of issue.	653
	May 1	To the Mexican Ambassador	Border disturbances. Investigation shows firing by American guards justified in encounter of Jan. 25 between smugglers and troops guarding international boundary in neighborhood of El Paso.	562
985	May 1	From the Ambassador in Mexico	Protection of American oil interests. Transmits Circular No. 14 of the Department of Hacienda, fixing term for presentation of declarations and payment of taxes on petroleum lands and leases established by decree of Feb. 19.	718

MEXICO—Continued

No.	Date	From and to whom	Subject	Page
993	1918 May 6	From the Ambassador in Mexico	Same subject. Transmits Circular No. 15 of the Department of Hacienda, prescribing that royalty tax for March and April shall be paid in cash.	718
1047	May 8	To the Ambassador in Mexico (tel.)	Border disturbances. Telegram quoted from Commanding Officer, Southern Department, May 1, reporting patrol attacked by Mexicans who were on American side of Rio Grande near Neville ranch; no casualties; instruction to bring to attention of Mexican Government.	563
472	May 9	To the Mexican Ambassador	Same subject. Denies press reports concerning attitude of U. S. Government toward present Mexican administration.	563
A-1890	May 9	From the Mexican Ambassador	Same subject. Repeats protest against burning of Pilares ranch and requests that sufferers be paid for losses.	564
544	May 14	To the Ambassador in Mexico	Same subject. Instruction that the Mexican Government be requested to direct Mexican military authorities along the border to prevent firing across international boundary by Mexican soldiers, and stop raids upon American soil.	565
1024	May 14	From the Ambassador in Mexico	Protection of American oil interests. Transmits Circular No. 18 of the Department of Hacienda, correcting Circular No. 15.	719
1070	May 14	From the Ambassador in Mexico (tel.)	Same subject. President Carranza has referred certain features of petroleum law to a commission for study and revision.	719
1068	May 15	To the Ambassador in Mexico (tel.)	Border disturbances. Instruction to inform Mexican Government that U. S. troops ordered not to fire upon any person on Mexican side of boundary unless fired upon first or except in self-defense; upon receipt of specific data regarding offenders, appropriate action will be taken.	565
1044	May 15	From the Ambassador in Mexico	Protection of American oil interests. Reports interview with Secretary of State for Foreign Affairs regarding the petroleum decree of Feb. 19.	720
483	May 17	To the Mexican Ambassador	Border disturbances. Investigation of occurrence referred to in notes of Apr. 16 and 26, shows that firing was started by Mexican soldiers and returned by American patrol.	566

MEXICO—Continued

No.	Date	From and to whom	Subject	Page
1078	1918 May 17	From the Ambassador in Mexico (tel.)	Protection of American oil interests. Time for filing manifests called for by Art. 14 of decree of Feb. 19 extended until July 31; Cabinet will give representatives of petroleum interests opportunity to be heard.	720
1085	May 18	To the Ambassador in Mexico (tel.)	Same subject. Department pleased to note deterrent effect of its protests and trusts that President Carranza will see advisability of radically modifying decree.	721
485	May 21	To the Mexican Ambassador	Border disturbances. Further reply to note No. 1620 of Apr. 11; the American troops which crossed the boundary into Mexico were in pursuit of Mexican raiders; Government hopes stop will be put to activities of raiders.	566
	May 21	To the Mexican Ambassador	Same subject. Refers to his note of Apr. 19, and states that proper United States authorities in Texas are keeping in close touch with movements of Gen. Francisco Coss and others.	568
1051	May 22	From the Ambassador in Mexico	Protection of American oil interests. Transmits decree extending until July 31 the time within which statements required by Art. 14 of decree of Feb. 19 may be filed.	721
1063	May 28	From the Ambassador in Mexico	Border disturbances. Foreign Office states that Mexicans referred to in Department's telegram of May 8, were outlaws, and orders have been issued to pursue them actively.	568
1078	May 29	From the Ambassador in Mexico	Protection of American oil interests. Reports satisfactory interview between Messrs. Garfield and Rhoades, representatives of American oil companies in Mexico, and President Carranza, on subject of petroleum decree.	722
1092	June 5	From the Ambassador in Mexico	Same subject. Messrs. Garfield and Rhoades leaving for New York; Mr. Garfield will call at the Department; Mexican Government apparently will insist upon its interpretation of Art. 27, and upon its ownership of subsoil petroleum deposits thereunder.	723
	June 7	Address of President Wilson to visiting Mexican editors	Attitude of the United States toward Latin America. Outline of the policy of the administration.	577
1144	June 7	To the Ambassador in Mexico (tel.)	Protection of Americans. Instruction to bring to attention of the Mexican Government the necessity of dispersing bands of Indians in Yaqui Valley.	569

MEXICO—Continued

No.	Date	From and to whom	Subject	Page
	1918 June 11	From the Peruvian Minister	Attitude of the United States toward Latin America. Quotes despatch from Minister of Foreign Affairs expressing the satisfaction of Peruvian Government over address of President Wilson, and announcing decision to participate in agreement contemplated.	580
1168	June 12	From the Ambassador in Mexico (tel.)	Same subject. President Carranza favorably impressed by President Wilson's speech; hopes it will be corroborated by subsequent events.	580
1121	June 12	From the Ambassador in Mexico	Protection of American oil interests. Transmits copies of correspondence exchanged between Messrs. Garfield and Rhoades and the Secretary of Industry, Commerce, and Labor, regarding the petroleum decree of Feb. 19.	723
1170	June 13	From the Ambassador in Mexico (tel.)	Same subject. Mexican Government has published U. S. note of Apr. 2, protesting against petroleum decree; apparently an attempt to destroy effect of President Wilson's speech.	732
	June 14	From the Charge in Chile (tel.)	Attitude of the United States toward Latin America. Reports comments of press on President Wilson's speech to Mexican newspaper men.	581
589	June 15	To the Ambassador in Mexico	Border disturbances. Summarizes War Department reports concerning nine incursions of Mexicans into United States territory, and depredations committed. Instructions to make formal or informal representations to Mexican Government, if expedient.	568
	June 15	From the Consul General at Guayaquil	Attitude of the United States toward Latin America. Transmits editorial regarding President Wilson's speech to the Mexican newspaper men, and expresses satisfaction at change in sentiment toward the United States.	581
1189	June 17	From the Ambassador in Mexico (tel.)	Same subject. Reports comments of press on President Wilson's speech to Mexican newspaper men.	583
	June 17	From the Ambassador in Argentina (tel.)	Same subject. Reports comments of press on President Wilson's speech to Mexican newspaper men.	583
1135	June 19	From the Ambassador in Mexico	Same subject. Transmits summaries of press comments on President Wilson's speech and the Embassy's note of Apr. 2.	584

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No.	Date	From and to whom	Subject	Page
1136	1918 June 19	From the Ambassador in Mexico	Protection of American oil interests. Transmits a copy of the memorial presented to President Carranza by Mexican petroleum landowners.	733
1192	June 21	To the Ambassador in Mexico (tel.)	Financial affairs. Requests list of funds seized from banks under decree of Sept. 15, 1916, and disposition which Mexican Government has made of such funds.	654
1210	June 21	From the Ambassador in Mexico (tel.)	Protection of American oil interests. Summarizes editorial comment on note of Apr. 2.	736
1196	June 24	To the Ambassador in Mexico (tel.)	Attitude of the United States toward Latin America. Discusses means of demonstrating to Mexican people in concrete terms the sincerity of President Wilson's expressions of friendship; requests views as to appropriate action.	568
1156	June 26	From the Ambassador in Mexico	Same subject. Transmits summaries of articles on President Wilson's speech and Embassy's note of Apr. 2; comments on Mexico's attitude.	588
1167	June 26	From the Ambassador in Mexico	Financial affairs. Contains list of funds seized from banks by Mexican Government, which it is understood have been used to cover monthly deficits of Government expenses.	654
1220	June 29	To the Ambassador in Mexico (tel.)	Attitude of the United States toward Latin America. Quotes statement issued to the press regarding Mexico's attitude with reference to the speech of President Wilson and Embassy's note.	593
1238	June 30	From the Ambassador in Mexico (tel.)	Same subject. Summarizes press comments regarding the Monroe Doctrine and the Carranza Doctrine.	593
1243	July 1	From the Ambassador in Mexico (tel.)	Same subject. Acknowledges receipt of telegram No. 1220; reports publication in Mexican papers of statement transmitted therein.	594
1178	July 1	From the Ambassador in Mexico	Same subject. Interview with President Carranza regarding President Wilson's speech and desire of United States to act in accordance therewith.	594
1183	July 2	From the Ambassador in Mexico	Financial affairs. Approximately 50,000,000 pesos taken from Banco de Londres y México by the Mexican Government.	655
[Enclosure]	July 4	From President Meléndez of Salvador to President Wilson	Attitude of the United States toward Latin America. Congratulates President Wilson upon his speech to Mexican editors and assures him of the cooperation and good will of Salvador.	597

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No.	Date	From and to whom	Subject	Page
1240	1918 July 6	To the Ambassador in Mexico (tel.)	Commercial relations. Enumerates articles that will be licensed for export into Mexico, and instructs to give announcement to press, making it clear that goods not imperatively needed by Mexico should continue to be exported to the United States and that goods exported to Mexico from the United States should not be reexported.	627
1260	July 9	From the Ambassador in Mexico (tel.)	Same subject. Quotes proposed statement to Mexican press with regard to articles to be exported into Mexico from the United States.	629
519	July 10	To the Mexican Ambassador	Border disturbances. Matter of burning of Pilares ranch is receiving Department's serious consideration.	571
	July 10	To the Secretary of War	Same subject. Suggests that orders given to officers along border be so modified as to prevent American soldiers from entering Mexico or firing across the border without specific orders in each case from War Department.	571
1263	July 11	From the Ambassador in Mexico (tel.)	Commercial relations. Reports publication of statement of the Embassy regarding exports from United States.	630
	July 15	From the Secretary of War	Border disturbances. Undesirable from military standpoint to instruct American soldiers that, when being fired upon by Mexicans, they are not to return the fire, but must ask the War Department for permission to do so.	572
1230	July 17	From the Ambassador in Mexico	Financial affairs. Transmits a supplemental list of dates, amounts, and character of specie taken from the Banco de Londres y México by the Mexican Government.	655
1219	July 17	From the Ambassador in Mexico	Protection of American oil interests. Transmits administrative regulations for enforcing Art. 14 of the petroleum decree of Feb. 19; apparently indicating determination of the Mexican Government to carry into effect the provisions of Art. 27 of the Constitution.	736
	July 18	From the Salvadorean Chargé	Attitude of the United States toward Latin America. Transmits letter from the President of Salvador to President Wilson, expressing congratulations upon the President's speech to Mexican editors, and assurances of cooperation and good will.	597
1241	July 19	From the Ambassador in Mexico	Protection of American oil interests. Transmits decree of July 8, imposing a tax on petroleum claims.	742

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No.	Date	From and to whom	Subject	Page
	1918 July 20	From Mr. Harold Walker to the Counselor for the Department of State	Same subject. In view of regulations issued for putting into effect decree of Feb. 19, American oil producers desire definite assurance that the U. S. Government will protect them against confiscatory measures. Memorandum enclosed.	743
	July 22	Circular to Consular Officers in Mexico	Commercial relations. Transmits memorandum interpreting wishes of the President and policy of Department toward Mexico; asks information by cable and despatch as to conditions in consular districts.	630
1922	July 26	From the Consul at Vera Cruz	Attitude of the United States toward Latin America. Transmits appreciative editorial published in <i>Los Sucesos</i> , concerning President Wilson's policy.	598
1323	July 30	To the Ambassador in Mexico (tel.)	Claims of American citizens against Mexico. Instruction to seek an early and satisfactory reply from the Mexican Government to note of Mar. 29 regarding claims commission; friendly relations would be promoted by impartial commission.	808
	July 31	To the Minister in Salvador (tel.)	Attitude of the United States toward Latin America. Transmits message from President Wilson to be conveyed to President Méndez.	600
1273	July 31	From the Ambassador in Mexico	Protection of American oil interests. Transmits copy of the official announcement of modifications and interpretations of the petroleum land tax law, and the decrees of May and July; the intention of legislation by decree is to give effect to Art. 27 of the 1917 Constitution.	745
1275	July 31	From the Ambassador in Mexico	Claims of American citizens against Mexico. No reply has been received from Mexican Government relative to claims commission.	808
	Aug. 4	From the committee representing the oil producers in Mexico to the Assistant Counselor for the Department of State (tel.)	Protection of American oil interests. Transmits telegram sent to Chief of Oil Division of Fuel Administration, protesting against the action of the Mexican Government and requesting the U. S. Government to express its desires as to the action they should take for its best interests.	749
466	Aug. 5	From the Consul at Tampico	Protection of Americans. Transmits descriptive statements of bandit outrages occurring from Aug. 15, 1917, to June 30, 1918, throughout Tampico oil fields.	670

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No.	Date	From and to whom	Subject	Page
1291	1918 Aug. 6	From the Ambassador in Mexico	Same subject. Transmits list of American citizens who have received personal injuries at hands of Mexicans since February 1917, and a list of American citizens murdered.	689
	Aug. 7	From the Consul at Tampico (tel.)	Protection of American oil interests. Oil companies warned that persons connected with Mexican Government will denounce through third parties valuable oil properties not manifested by present holders within time allowed.	750
1283	Aug. 7	From the Ambassador in Mexico	Same subject. Transmits new petroleum decree of July 31, and copy of formal protest of British Government against decree of Feb. 19; requests instructions as to renewal of protest by the United States.	750
1357	Aug. 12	To the Ambassador in Mexico (tel.)	Same subject. Instruction to request extension of time for putting decrees into effect; and to point out apprehension of the United States as to effect of decrees upon rights of American citizens, and the necessity which may arise to impel their protection.	754
1365	Aug. 14	To the Ambassador in Mexico (tel.)	Same subject. Notify all oil companies except Texas Co. not to file manifestations but to apply for <i>amparo</i> in Mexico City and Vera Cruz before Aug. 20.	755
1306	Aug. 14	From the Ambassador in Mexico	Same subject. Transmits copy of reply of the Mexican Government to the protest of the British Government against decree of Feb. 19.	756
1312	Aug. 14	From the Ambassador in Mexico	Same subject. Reports interview with President Carranza and transmits decrees of Aug. 8, 9, and 12.	757
[Enclosure]	Aug. 17	From the Mexican Undersecretary of State for Foreign Affairs to the American Ambassador	Same subject. Reply to protest of Apr. 2 and to request for postponement of operation of various decrees.	767
1337	Aug. 21	From the Ambassador in Mexico	Same subject. Transmits copy of note of Aug. 17, from the Mexican Government; also copy of British note of Aug. 20, protesting against decrees issued since Feb. 19. Acute crisis has been avoided.	766
	Aug. 21	From the Consul at Tampico (tel.)	Protection of Americans. Bandits attack terminals of Eureka Coast Oil Co. and Corona Co.	682

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No.	Date	From and to whom	Subject	Page
1405	1918 Aug. 26	To the Ambassador in Mexico (tel.)	Same subject. Instruction to request Mexican Government to extend adequate protection for American life and property against bandits in oil fields.	682
1374	Sept. 4	From the Ambassador in Mexico	Financial affairs. Transmits Circular No. 38 of the Department of the Treasury and Public Credit, concerning the settlement of debts under the terms of the law of payments of Apr. 13.	656
1385	Sept. 4	From the Ambassador in Mexico	Message of President Carranza to the Mexican Congress, Sept. 1, 1918. Transmits a copy of the message with translations of extracts.	632
687	Sept. 9	To the Ambassador in Mexico	Financial affairs. Instruction to state to Foreign Office that certain provisions of Arts. 3 and 9 of the law of payments of Apr. 13 are open to objection.	658
A-2833	Sept. 10	From the Mexican Ambassador	Border disturbances. Protests violation of Mexican territory by entrance of American soldiers into El Mulato.	572
690	Sept. 10	To the Ambassador in Mexico	Protection of Americans. Transmits list of outrages upon American citizens submitted by the Consul at Tampico with instruction to present it to President Carranza and ask what steps he plans to take for the protection of American citizens.	682
1492	Oct. 9	From the Chargé in Mexico	Claims of American citizens against Mexico. Transmits decree dated Oct. 1, which cancels that of Dec. 24, 1917, concerning regulations for the application of the decree of Nov. 24, 1917.	809
[Enclosure]	Oct. 28	From the Mexican Undersecretary of State for Foreign Affairs to the American Chargé	Protection of Americans. Expresses regret at crimes against American citizens in Tampico district and assures that proper protection will be given.	683
1572	Oct. 31	From the Ambassador in Mexico	Border disturbances. Presentation of Department's instruction of June 15 delayed; since border conditions have improved, bringing incidents to notice of Mexican Government now would serve no useful purpose.	572
675	Nov. 2	To the Mexican Ambassador	Same subject. Unauthorized entry into El Mulato by American soldiers has been punished.	573
[Enclosure]	Nov. 5	From the War Department	Same subject. Calls attention to incursions of Mexican troops into the United States and firing on American troops.	574

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No.	Date	From and to whom	Subject	Page
[Quoted in instruction]	1918 Nov. 5	From the War Department	Same subject. Calls attention to organization of small bands by Carrancistas for purpose of crossing border and stealing horses and cattle.	575
[Enclosure]	Nov. 7	From the Mexican Acting Secretary of State for Foreign Affairs to the American Ambassador	Financial affairs. Transmits a memorandum of the Mexican Department of the Treasury regarding the laws of payments.	659
A-3353	Nov. 8	From the Mexican Ambassador	Border disturbances. Reports alleged killing, by American soldiers, of Guadalupe Machuca, and requests investigation.	574
1619	Nov. 8	To the Ambassador in Mexico (tel.)	Claims of American citizens against Mexico. Requests telegraphic report on status of proposed claims commission, and attitude of other governments towards commission.	813
1566	Undated [Rec'd Nov. 9]	From the Ambassador in Mexico	Protection of Americans. Transmits note of Oct. 28 from the Foreign Office, expressing regret at crimes against American citizens in Tampico district and assuring that proper protection will be given.	683
771	Nov. 14	To the Ambassador in Mexico	Border disturbances. Letter from the War Department quoted, reporting incursions of Mexican troops into the United States and firing on American troops. Instruction to bring to attention of Mexican Government and request that steps be taken to prevent recurrence.	574
1710	Nov. 15	From the Ambassador in Mexico (tel.)	Claims of American citizens against Mexico. Reports no reply received from Foreign Office relative to claims commission, and gives attitudes of other governments towards commission.	813
1611	Nov. 20	From the Ambassador in Mexico	Protection of American oil interests. Transmits presidential decree of Nov. 14, extending time for denouncement of oil claims.	771
1612	Nov. 20	From the Ambassador in Mexico	Same subject. Prospect is fair for a satisfactory solution of petroleum difficulties as a result of the negotiations.	772
782	Nov. 22	To the Ambassador in Mexico	Border disturbances. Letter from the War Department quoted, reporting organization of small bands by Carrancistas for the purpose of crossing border and stealing horses and cattle. Instruction to lay matter before Mexican Government and request prompt action to improve lawless conditions.	575

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No.	Date	From and to whom	Subject	Page
1656	1918 Nov. 22	To the Ambassador in Mexico (tel.)	Claims of American citizens against Mexico. Instruction to press Mexican Government for favorable reply to representations made regarding claims commission.	813
572	Nov. 23	From the Vice Consul at Tampico	Protection of Americans. Transmits copy of joint protest made by several oil companies to chief of military operations in district, against the commandeering of property by military authorities.	683
1750	Nov. 25	From the Ambassador in Mexico (tel.)	Same subject. No reply to Embassy's notes has been received from Foreign Office; member of claims commission states meetings have been held and hopes to begin consideration of individual claims in near future.	814
789	Nov. 26	To the Ambassador in Mexico	Border disturbances. Approves action as outlined in despatch No. 1572 of Oct. 31.	575
1668	Nov. 29	To the Ambassador in Mexico (tel.)	Claims of American citizens against Mexico. Repeats request regarding efforts being made to obtain reply from Foreign Office to representations made.	814
[Enclosure]	Nov. 29	From the Mexican Acting Secretary of State for Foreign Affairs to the American Ambassador	Same subject. Reply to note of Mar. 29, regarding certain phases of decree providing for a claims commission.	815
1639	Dec. 3	From the Ambassador in Mexico	Protection of American oil interests. Transmits a text of proposed new petroleum law presented to the Mexican Congress by President Carranza on Nov. 23.	772
	Dec. 5	To the Ambassador in Mexico	Protection of American trade-marks. Instruction to bring to the attention of the Mexican Government apparent violations of the international trade-marks convention.	2n
586	Dec. 7	From the Consul at Tampico	Protection of Americans. Opinion as to promises of Mexican Government and causes of situation in Tampico district.	685
1656	Dec. 11	From the Ambassador in Mexico	Claims of American citizens against Mexico. Transmits copy of reply of Mexican Government to note of Mar. 29, regarding certain phases of decree providing for a claims commission; comments thereon.	814
799	Dec. 13	To the Ambassador in Mexico	Protection of American oil interests. Expresses pleasure of Government over improvement in situation; transmits note to Mexican Government restating position of the United States on principles involved in petroleum decrees.	784

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No.	Date	From and to whom	Subject	Page
801	1918 Dec. 13	To the Ambassador in Mexico	Protection of Americans. Instruction to make appropriate representations to the Mexican Government in the case of the joint protest of oil companies made to Gen. Caesar Lopez de Lara.	686
[Enclosure]	Dec. 14	From the Mexican Acting Secretary of State for Foreign Affairs to the American Ambassador	Border disturbances. Rigid investigation will be made of activities of organized bands of Mexicans in Big Bend district.	576
1665	Dec. 14	From the Ambassador in Mexico	Financial affairs. Transmits a note from the Mexican Government and enclosures mentioned therein, giving reasons for issue of the laws of payments.	659
1717	Dec. 14	To the Ambassador in Mexico (tel.)	Protection of American oil interests. Requests opinion as to whether protest should not now be made against proposed legislation.	789
1817	Dec. 16	From the Ambassador in Mexico (tel.)	Same subject. In view of recent developments, approves making a protest and requests instruction as to matters to be included.	789
1678	Dec. 19	From the Ambassador in Mexico	Border disturbances. Transmits note from Foreign Office, stating that rigid investigation will be made of activities of organized bands of Mexicans in Big Bend district.	576
1740	Dec. 21	To the Ambassador in Mexico (tel.)	Protection of American oil interests. Instruction as to form of protest against bill approving petroleum decrees.	790
1858	Dec. 25	From the Ambassador in Mexico (tel.)	Same subject. Chamber has approved President's exercise of powers in finance with exception of decrees relative to public charity and import tax on paper.	790
808	Dec. 26	To the Ambassador in Mexico	Protection of Americans. Instruction to bring to attention of Mexican Government the reported lack of improvement in the Tampico district, and renew request for adequate protection there.	686
1860	Dec. 26	From the Ambassador in Mexico (tel.)	Protection of American oil interests. Requests additional instructions as to the nature of the protests and representations to be made to the Mexican Government; makes suggestions.	790
1862	Dec. 27	From the Ambassador in Mexico (tel.)	Same subject. Mexican Cabinet extends period for preferential denunciation of petroleum lands.	791
1752	Dec. 27	To the Ambassador in Mexico (tel.)	Same subject. Department approves of making urgent representations as suggested in telegram No. 1860.	791

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No.	Date	From and to whom	Subject	Page
[Enclosure]	1918 Dec. 28	From the American Ambassador to the Mexican Acting Secretary of State for Foreign Affairs	Same subject. Renews protests against petroleum decrees.	792
	Dec. 30	To the Mexican Chargé	Border disturbances. Investigation shows that Guadalupe Machuca was killed after American patrol had been fired upon by Mexicans.	576
1872	Dec. 31	From the Ambassador in Mexico (tel.)	Protection of American oil interests. Mexican Congress has approved the Executive's use of special powers in finance and has granted him special powers to raise or lower import and export duties.	791
1692	Dec. 31	From the Ambassador in Mexico	Same subject. Transmits copy of note addressed to the Foreign Office, renewing protests against petroleum decrees.	791

NETHERLANDS

322	1918 Apr. 4	To the Minister in the Netherlands. <i>Mutatis mutandis</i> , to Spain	Abrogation of treaties, certain provisions of which conflicted with the Seamen's Act of March 4, 1915. Instruction to give formal notice to the Netherland Government of the abrogation of the treaty of Jan. 19, 1839.	3
323	Apr. 4	To the Minister in the Netherlands	Same subject. Instruction to give formal notice to the Netherland Government of the abrogation of the treaty of May 23, 1878.	4
[Enclosure]	June 3	The Netherland Minister of Foreign Affairs to the American Minister	Same subject. Acknowledges receipt of formal notice of abrogation of the treaties of Jan. 19, 1839, and May 23, 1878.	5
1375	June 10	From the Minister in the Netherlands	Same subject. Transmits copies of notes addressed to the Netherland Government and its reply, regarding the abrogation of the treaties of Jan. 19, 1839, and May 23, 1878.	5
	Dec. 5	To the Minister in the Netherlands	Protection of American trade-marks. Instruction to bring to the attention of the Netherland Government apparent violations of the international trade-marks convention.	2n

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No.	Date	From and to whom	Subject	Page
[Enclosure]	1917 June 18	From the Commissioner on Public Credit in Nicaragua	Financial affairs. Report on accomplishments of commission during first three months of existence.	823
383	June 19	From the Minister in Nicaragua	Same subject. Transmits first interim report of the Commission on Public Credit.	823
[Enclosure]	Nov. 20	From the Commission on Public Credit to the Nicaraguan Minister of Foreign Affairs	Same subject. Preliminary report of activities to date.	834
	1918 Jan. 8	From the Minister in Nicaragua (tel.)	Same subject. Don Octaviano César designated as Nicaraguan member of High Commission; President Chamorro requests that the United States appointments be made.	825
	Jan. 14	To the Minister in Nicaragua (tel.)	Same subject. Announces appointment of Mr. A. F. Lindberg, as American member of High Commission, and Professor Jenks as umpire; instructions to cable results of reports of Debt Commission, and advice as to exact sum in hands of Nicaraguan Government to pay all claims.	825
	Jan. 14	To the Minister in Nicaragua (tel.)	Same subject. Requests opinion as to the matter of paying \$50,000 to Minister of Finance to cover 1917 budget.	826
	Jan. 21	From the Minister in Nicaragua (tel.)	Same subject. Nicaraguan Government has authorized bond issue of \$4,000,000; approximate total of Debt Commission awards is \$5,200,000 comprised of summarized items.	826
	Jan. 21	From the Minister in Nicaragua (tel.)	Same subject. Proposes procedure for meeting of budget deficit, provided approval of Department is given.	827
473	Jan. 29	From the Minister in Nicaragua	Same subject. Transmits text of bond law passed by Nicaraguan Congress Dec. 14, 1917; provisions in accordance with financial plan; bond service to be supervised by High Commission.	828
	Jan. 31	To the Minister in Nicaragua (tel.)	Same subject. Further information desired before sanctioning approval of payments for deficit; appears advisable that High Commission should decide upon payments in same way as other payments; Department concurs in belief that payments should begin as soon as possible.	831

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No.	Date	From and to whom	Subject	Page
	1918 Feb. 4	From the Commissioner on Public Credit in Nicaragua	Same subject. Transmits statement of principles on which awards were based, and joint report presented by the Commission on Public Credit to the Minister of Foreign Affairs which was not signed by Minister of Finance because of disagreement with principle of elimination of unpaid interest from claims.	832
	Feb. 7	From the Minister in Nicaragua (tel.)	Same subject. Suggests possible way by which Nicaragua could pay the budget deficit; Government willing for High Commission to supervise payment; information concerning payment of certain claims.	837
	Feb. 9	From the Commissioner on Public Credit in Nicaragua	Same subject. Interim Report No. 3 of the Commission on Public Credit.	838
	Mar. 6	To the Minister in Nicaragua (tel.)	Same subject. Requests list of American creditors, names of those to whom awards have been made, and amounts of awards; asks whether provision has been made for signing of waivers; requests text of waiver and report on American claims rejected.	840
	Mar. 11	From the Minister in Nicaragua (tel.)	Same subject. Supplies list of American creditors, etc., requested by Department.	840
	Mar. 21	From the Minister in Nicaragua (tel.)	Same subject. High Commission and creditors urge that Department authorize the High Commission to begin early payment of awards to relieve economic situation.	841
	Mar. 21	To the Minister in Nicaragua (tel.)	Same subject. Requests information regarding claims rejected by the Debt Commission; unable to consent to immediate distribution of cash; instruction to inform General Chamorro that delay is due to desire of the United States that nothing be left for decision at a later time.	842
	Mar. 26	From the Minister in Nicaragua (tel.)	Same subject. List of claims rejected by Debt Commission, with grounds for rejection; statement of total awards, cash available, and bonds authorized; disappointment at delay in payment evinced by General Chamorro.	843

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No.	Date	From and to whom	Subject	Page
	1918 Apr. 2	From the Commissioner on Public Credit in Nicaragua	Same subject. Interim Report No. 4 of the Commission on Public Credit, transmitting certified awards in connection with American claims disallowed, and stating position of commission regarding them; appeal of High Commission to Department of State for authorization to begin payments on awards.	845
	Apr. 3	To the Minister in Nicaragua (tel.)	Same subject. Consent of Department to immediate payment of awards; instruction regarding payment of Groce claim.	847
	Apr. 5	From the Minister in Nicaragua (tel.)	Same subject. Statement regarding reserve fund in excess of awards of Commission on Public Credit; request for information regarding amount held in U. S. Treasury subject to order of High Commission; suggestion that Collector General of Customs will be notified to transfer funds held by him to High Commission and Nicaraguan Government will be so informed, if Department desires.	847
	Apr. 19	To the Minister in Nicaragua (tel.)	Same subject. Procedure for transfer of treaty moneys and customs revenues to the High Commission for payment of awards of Commission on Public Credit.	848
	Apr. 20	To the Minister in Nicaragua (tel.)	Same subject. Department disposed to acquiesce in use of customs revenues for Nov. and Dec. for payment of deficit, contingent on agreement of High Commission.	848
	Apr. 25	To the Minister in Nicaragua (tel.)	Costa Rica—Political affairs. Transmits text of telegram of April 23 to the Chargé in Costa Rica, denying any intention of recognizing Tinoco régime.	257n
	May 6	From the Minister in Nicaragua (tel.)	Financial affairs. Nicaraguan Government and High Commission have been informed to proceed with payments on claims.	849
	May 30	From the Minister in Nicaragua (tel.)	Costa Rica—Political affairs. President Chamorro considers abnormal situation in Costa Rica as menace to Nicaragua and desires to know attitude of Department on best solution.	264
	June 4	To the Minister in Nicaragua (tel.)	Same subject. The Department appreciates President Chamorro's expression of friendship; feels that patience should be exercised towards Costa Rica; is considering suggestion that ships cease calling at Costa Rican ports.	265

NICARAGUA—Continued

No.	Date	From and to whom	Subject	Page
215	1918 July 12	To the Minister in Nicaragua	Financial affairs. Department re-serves for later consideration cases of claims rejected by the commission and awards rejected by claimants; no assurance can be given as to attitude toward dissatisfied claimants; instruction to request Nicaraguan Government to so inform Mr. Lindberg.	849
	Nov. 4	To the Minister in Nicaragua (tel.)	Costa Rica—Political affairs. Instruction to recall to President Chamorro attitude of the United States towards armed action against Costa Rica; quotes telegram to Honduras, Nov. 4.	270
	Nov. 6	From the Charge in Nicaragua (tel.)	Same subject. President advises that Honduran Government had agreed to plan for armed action against Costa Rica, but in view of Department's declaration, Nicaragua will abandon plan.	271
619	Dec. 24	From the Charge in Nicaragua	Message of President Chamorro to the Nicaraguan Congress. Transmits copy of message.	819

NORWAY

180	1917 Dec. 28	To the Minister in Norway	Abrogation of treaties, certain provisions of which conflicted with the Seamen's Act of March 4, 1915. Instruction to give formal notice to the Norwegian Government of the abrogation of the treaty of July 4, 1827.	5
[Enclo- sure]	1918 Feb. 5	From the Norwe- gian Minister for Foreign Affairs to the American Minister	Same subject. Requests reconsideration of the denunciation of the treaty of July 4, 1827.	7
679	Feb. 10	From the Minis- ter in Norway	Same subject. Transmits note of Feb. 5 from the Norwegian Government.	7
	Mar. 7	From the Norwe- gian Minister	Arbitration convention of Apr. 4, 1908. The Norwegian Government desires to extend the convention for five years.	850
409	Mar. 23	To the Norwe- gian Minister	Same subject. Accepts draft agree- ment for extension of convention.	850
234	May 31	To the Minister in Norway	Abrogation of treaties, certain provisions of which conflicted with the Seamen's Act of March 4, 1915. Instruction to advise the Norwegian Government that denunciation of the treaty of July 4, 1827, is final.	8

NORWAY—Continued

No.	Date	From and to whom	Subject	Page
Treaty Series No. 632	1918 July 12	Agreement	Arbitration convention of Apr. 4, 1908. Agreement between the United States and Norway extending the duration of the arbitration convention for five years.	851

PANAMA

	1917 Dec. 31	From the Minister in Panama (tel.)	Costa Rica—Political affairs. Volio discouraged; still planning to invade Costa Rica from Nicaragua, if the United States does not object; believes Tinoco will never yield voluntarily.	229
	1918 Jan. 3	From the Minister in Panama (tel.)	Same subject. Reports intention of Volio party to proceed to Nicaragua on S. S. <i>Peru</i> , and requests instruction whether to permit departure.	229
	Jan. 5	To the Minister in Panama (tel.)	Same subject. Inadvisable to permit Volio party to proceed to Nicaragua.	230
	Jan. 13	From the Minister in Panama (tel.)	Same subject. Volio promises to abide by will of the United States; report received that Tinoco would declare war on Germany in return for U. S. recognition and would withdraw in favor of man acceptable to Volio.	231
	Feb. 27	From the Minister in Panama (tel.)	Same subject. Volio begging to leave; plans to invade Costa Rica from Nicaragua; instruction requested.	242
	Mar. 2	From the Minister in Panama (tel.)	Same subject. Volio's associates slipped away; may be arrested at David, Panama, if Department desires; Volio still in Panama; instructions requested.	246
	Mar. 4	To the Minister in Panama (tel.)	Same subject. Volio and associates may not be forbidden to leave Republic of Panama if they depart as individuals.	246
	Mar. 4	To the Minister in Panama (tel.)	Same subject. Department cannot recommend Volio be held if he desires to leave Panama as a private citizen.	247
	Apr. 4	From the Minister in Panama (tel.)	Same subject. Rumored Volio expedition consists of ten men who plan to enter Puntarenas separately; strong sentiment in that province against Tinoco because of Guel murder. Tinoco has cabled his representative in Panama to file formal protest with American Minister.	253

PANAMA—Continued

No.	Date	From and to whom	Subject	Page
	1918 Apr. 7	From the Minister in Panama (tel.)	Same subject. Panaman authorities arrested 11 of revolutionists. Tinoco cables Clare that he has dispatched 1,000 men and asks names of those in Panama who aided revolutionists.	254
	Apr. 12	From the Minister in Panama (tel.)	Same subject. Revolutionists brought here last night with exception of Volio, who has evaded authorities; Clare instructed to thank Government for detaining them. Quesada on way to Panama to visit mother.	255
[Enclosure]	Apr. 13	From the Panaman Secretary for Foreign Affairs to the American Minister	Claims of American citizens injured during the Cocoa Grove riot of Feb. 14, 1915. Transmits report of investigations made by Panaman judicial authorities.	855
	Apr. 25	To the Minister in Panama (tel.)	Costa Rica—Political affairs. Transmits text of telegram of Apr. 23 to the Chargé in Costa Rica, denying any intention of recognizing Tinoco régime.	257
1932	Apr. 29	From the Minister in Panama	Claims of American citizens injured during the Cocoa Grove riot of Feb. 14, 1915. Summary of investigation of Panaman authorities based on court documents; further proceedings indefinitely suspended.	853
1990	June 19	From the Chargé in Panama	Same subject. Transmits note of Apr. 13, from Panaman Secretary for Foreign Affairs, with report of investigations made by Panaman judicial authorities.	854
547	Sept. 3	To the Minister in Panama	Same subject. Instruction to present the claim of the U. S. Government for the lump sum of \$10,000.	856
[Enclosure]	Oct. 8	From the American Minister to the Panaman Secretary for Foreign Affairs	Same subject. Note presenting claim of the U. S. Government for the sum of \$10,000.	860
2126	Oct. 9	From the Minister in Panama	Same subject. Transmits copy of note of Oct. 8, to Foreign Office.	859

PERU

	1918 June 11	From the Peruvian Minister	Attitude of the United States toward Latin America. Quotes despatch from Minister of Foreign Affairs expressing satisfaction of Peruvian Government over address of President Wilson, and announcing decision to participate in agreement contemplated.	580
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PORTUGAL

No.	Date	From and to whom	Subject	Page
	1918 Dec. 5	To the Minister in Portugal	Protection of American trade- marks. Instruction to bring to the attention of the Portuguese Government apparent violations of the international trade-marks convention.	2n

SALVADOR

[Enclo- sure]	1918 July 4	From President Meléndez of Salvador to President Wil- son	Attitude of the United States to- ward Latin America. Congratu- lates President Wilson upon his speech to Mexican editors and as- sures him of the cooperation and good will of Salvador.	597
	July 18	From the Salva- doran Chargé	Same subject. Transmits letter of July 4 from the President of Sal- vador to President Wilson.	597
	July 31	To the Minister in Salvador (tel.)	Same subject. Transmits message from President Wilson to be con- veyed to President Meléndez.	600

SPAIN

765	1918 Apr. 4	To the Ambassa- dor in Spain	Abrogation of treaties, certain pro- visions of which conflicted with the Seamen's Act of March 4, 1915. Instruction to give formal notice to the Spanish Government of the abrogation of the treaty of July 3, 1902.	3n
	Dec. 5	To the Ambassa- dor in Spain	Protection of American trade- marks. Instruction to bring to the attention of the Spanish Gov- ernment apparent violations of the international trade-marks con- vention.	2n
1930	Dec. 27	To the Ambassa- dor in Spain (tel.)	Abrogation of treaties, certain pro- visions of which conflicted with the Seamen's Act of March 4, 1915. Requests date which was inserted in the formal notice of abrogation of the treaty of July 3, 1902.	10
2268	Dec. 30	From the Ambas- sador in Spain (tel.)	Same subject. The date inserted in the formal notice of abrogation of the treaty of July 3, 1902, was May 8, 1919.	10

SWITZERLAND

	1918 Dec. 5	To the Minister in Switzerland	Protection of American trade- marks. Instruction to bring to the attention of the Swiss Gov- ernment apparent violations of the international trade-marks con- vention.	2n
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GENERAL

FARMERS' NATIONAL CONGRESS

File No. 811.607AF/30a

The Secretary of State to the Argentine Chargé (Quintana)¹

WASHINGTON, November 27, 1918.

SIR: Section 4 of an act of Congress entitled "An Act to enable the Secretary of Agriculture to carry out during the fiscal year ending June 30, 1919, the purpose of an act entitled 'An Act to provide further for the national security and defense by stimulating agriculture and facilitating the distributing of agricultural products' and for other purposes," approved November 21, 1918, authorizes the President "to extend an invitation to other nations to appoint delegates or representatives to the Farmers' National Congress to be held at Jacksonville, Florida, in connection with the Pan American International Farmers' and Livestock Exposition."

In pursuance of this authority, I have the honor and the pleasure to extend, in the President's behalf, to the Government of the Argentine Republic an invitation to be represented by delegates at the congress mentioned.

I am informed by the Director General of the congress that the sessions of the congress will be held from December 3 to 9, inclusive. As time will not allow for the sending of delegates from your country, I have the honor to make known to you the desire of the management of the congress that you or some one you may designate to represent your Embassy may find it convenient and agreeable to attend the congress.

I regret to add that the act mentioned makes no provision for defraying the expenses of those who may attend in acceptance of the invitation.

Accept [etc.]

ROBERT LANSING

¹*Mutatis mutandis*, on the same date, to the Embassies of Brazil, Chile, France, Great Britain, Italy, Japan, Mexico, and Spain, and the Legations of Belgium, Bolivia, Bulgaria, China, Colombia, Cuba, Denmark, Dominican Republic, Ecuador, Greece, Guatemala, Haiti, Honduras, Montenegro, Netherlands, Nicaragua, Norway, Panama, Paraguay, Persia, Peru, Portugal, Roumania, Salvador, Serbia, Siam, Sweden, Switzerland, Uruguay, and Venezuela.

PROTECTION OF AMERICAN TRADE-MARKS

File No. 811.543/48a

The Secretary of State to the Ambassador in Brazil (Morgan)¹

WASHINGTON, December 5, 1918.

SIR: From various private sources it has come to the attention of the Department that one Richard Mittler of Vienna, Austria, and presumably an Austrian subject, has, on a number of occasions, registered American trade-marks as his own property with the International Trade-Mark Bureau at Berne, Switzerland, apparently in accordance with the provisions of a convention for the international registration of trade-marks (arrangement of Madrid, April 14, 1891; revised at Brussels December 14, 1900, and at Washington, June 2, 1911), to which the following thirteen states appear to be parties: Austria, Hungary, Belgium, Brazil, Cuba, Spain, France, Italy, Mexico, Netherlands, Portugal, Switzerland, Tunis.

Under this convention it would seem that registration of a trade-mark in any one of the countries which are parties to the convention has the effect, when the International Trade-Mark Bureau is properly notified thereof, of registering that trade-mark in the other countries adhering to the convention, except in those countries where it may be rejected because of prior registration of another person or for other reasons.

The Department has been advised that the following companies, whose addresses and trade-marks are also given, have been affected by the international trade-mark registrations of Richard Mittler on or about January 13, 1916:

Name	Address	Trade-mark
Empire Rubber & Tire Co-----	Trenton, N. J-----	Empire
Thermoid Rubber Co-----	Trenton, N. J-----	Thermoid
Ajax Rubber Co., Inc-----	58th Street and Broadway, New York City.	Ajax
The Continental Rubber Works-----	Erie, Pa-----	Vitalic
Firestone Tire & Rubber Co-----	Akron, Ohio-----	Firestone
Federal Rubber Co-----	Cudahy, Wis-----	Federal
Fisk Rubber Co-----	Chicopee Falls, Mass-----	Fisk
Republic Rubber Co-----	Youngstown, Ohio-----	Republic

It will be noted that in every instance save that of the Continental Rubber Works, which sells its products under the trade-mark "Vitalic", the trade-mark is also an essential and striking part of the trade name, and is, in the language of commercial intercourse, the designation which would commonly be used to describe the product of each company in question.

It will also be observed that Article 10 of the international convention concerning the protection of trade-marks, signed at Buenos Aires on August 20, 1910, reads as follows:

Commercial names shall be protected in all the states of the Union, without deposit or registration, whether the same form part of a trade-mark or not.

¹The same, *mutatis mutandis*, on the same date, to the Ambassadors in France, Italy, Mexico, and Spain, and the Ministers in Cuba, Netherlands, Portugal, and Switzerland.

Furthermore, it is to be noted that Article 8 of the international convention for the protection of industrial property of March 20, 1883, as revised at Washington June 2, 1911, reads as follows:

Trade names shall be protected in all the countries of the Union without the obligation of filing, whether it be a part or not of a trade-mark.

The United States and the country to which you are accredited have become parties to the above conventions by depositing their respective ratifications with the Government of the Argentine Republic and with the United States Government.

You are, therefore, instructed to bring the above facts to the attention of the Brazilian Government, and to state that the Government of the United States does not doubt that American citizens and concerns will be accorded in the use of their trade names in Brazil the protection to which they are entitled under the international conventions for the protection of trade-marks and of industrial property, notwithstanding the obvious attempt of Mittler and possibly others to usurp American trade-marks.

I am [etc.]

For the Secretary of State:
BRECKINRIDGE LONG

**ABROGATION OF TREATIES, CERTAIN PROVISIONS OF WHICH
CONFLICTED WITH THE SEAMEN'S ACT OF MARCH 4, 1915¹**

Netherlands: Treaties of January 19, 1839, and May 23, 1878

File No. 711.0021/129a

The Secretary of State to the Minister in the Netherlands (Garrett)²

No. 322

WASHINGTON, April 4, 1918.

SIR: In an instruction under date of May 29, 1915,³ you were authorized, by direction of the President, to propose to the Netherlands Government an arrangement with regard to the elimination of stipulations in the treaties concluded by the Government of the United States with the Government of the Netherlands on January 19, 1839, and May 23, 1878, respectively. Since it appears that the Netherlands Government finds itself unable to agree to this Government's proposals, the Department desires that you address a note to the Minister for Foreign Affairs in the sense of the following:

Under instructions from my Government, I have the honor to give to the Netherlands Government on behalf of the Government of the United States the official notification contemplated by Article 6 of the treaty concluded by the Government of the United States with the Government of the Netherlands on January 19, 1839, whereby the operation of the treaty will terminate in accordance with its terms on _____.

¹ For the complete history of the abrogation of such treaty provisions, see *Foreign Relations*, 1915, pp. 3 *et seq.*, 1916, pp. 33 *et seq.*, 1917, pp. 9 *et seq.*

² The same, *mutatis mutandis*, on the same date, to the Ambassador in Spain (No. 765), regarding treaty of July 3, 1902.

³ *Foreign Relations*, 1915, p. 6, note 2; see also *ibid.*, 1916, p. 33, note 2.

As has been previously pointed out to the Government of the Netherlands, the application of the fundamental principles of the act of Congress approved March 4, 1915, to alien seamen within the territorial jurisdiction of the United States, involved an abrogation of treaty provisions inconsistent therewith. The President, therefore, using the discretion which he considered was granted to him to interpret the act in the sense contemplated by Congress, authorized this Legation to propose an arrangement between the two Governments which would carry out the purposes of the act by the elimination of stipulations in the treaty of January 19, 1839, inconsistent with the act.

It has further been pointed out to the Netherlands Government that in case no satisfactory understanding could be arrived at for the abrogation of these stipulations, other provisions of the treaty remaining in effect, a solution of the matter could only be found in the denunciation of the treaty in its entirety. Since it appears that the Netherlands Government finds itself unable to acquiesce in the proposal submitted by my Government, the Government of the United States is under the necessity of denouncing the treaty in its entirety.

I have the honor to request that you be good enough to make acknowledgment to me of this notification.

Since the treaty by its Article 6 provides that it shall remain binding for 12 months following notice of denunciation, you will insert in your communication to the Foreign Office containing this notice a date for the termination of the treaty precisely one year after the date of your note.

I am [etc.]

ROBERT LANSING

File No. 711.0021/129b

The Secretary of State to the Minister in the Netherlands (Garrett)

No. 323

WASHINGTON, April 4, 1918.

SIR: Referring to the Department's instruction of even date directing you to transmit to the Netherlands Government a communication giving notice of the abrogation of the treaty concluded by the Government of the United States and the Government of the Netherlands on January 19, 1839, the Department further instructs you to address at the same time a note to the Minister for Foreign Affairs with regard to the treaty of May 23, 1878, in the sense of the following:

Under instructions from my Government, I have the honor to give to the Netherlands Government, on behalf of the Government of the United States, the official notification contemplated by Article 16 of the treaty concluded between the Government of the United States and the Government of the Netherlands on May 23, 1878, whereby the operation of the treaty will terminate in accordance with its terms on _____.

In this relation, I beg to refer to my note of to-day's date giving notice of the abrogation of the treaty concluded by the two Governments on January 19, 1839, in which are indicated

the reasons which make it necessary for my Government to give notice of the abrogation of treaties concluded by it with the Netherlands Government which contain stipulations affected by the so-called Seamen's Act, approved March 4, 1915.

In inserting in your communication to the Foreign Office a date for the termination of the treaty, you will observe that by its Article 16 the treaty provides that it shall remain binding for one year following notice of denunciation.

I am [etc.]

ROBERT LANSING

File No. 711.0021/131

The Minister in the Netherlands (Garrett) to the Secretary of State
No. 1375

THE HAGUE, June 10, 1918.

SIR: With reference to your instructions Nos. 322 and 323 of April 4, 1918, regarding the abrogation of the treaties concluded by the Government of the United States and the Government of the Netherlands on January 19, 1839, and May 23, 1878, respectively, which were received by me on the 10th of May, 1918, I have the honor to enclose herewith copies of my notes¹ of the latter date to the Minister for Foreign Affairs in which I carried out your instructions to denounce these treaties, and of the reply of the Minister for Foreign Affairs—together with a translation—of June 3, 1918. The Minister for Foreign Affairs in his reply takes note of the statement in my communications to him to the effect that the two treaties in question will terminate on May 10, 1919.

I have [etc.]

J. W. GARRETT

[Enclosure—Translation]

The Netherland Minister of Foreign Affairs (Loudon) to the American Minister (Garrett)

No. 28757

THE HAGUE, June 3, 1918.

MR. MINISTER: I have the honor to acknowledge the receipt of your excellency's two notes of May 10 last in which you were good enough to inform me officially of the denunciation on the part of the United States of the two conventions concluded with the Netherlands, namely the commercial convention of January 19, 1839, and the consular convention of May 23, 1878.

This denunciation, as your excellency kindly points out to me, this time has regard to the two treaties in their entirety.

I have also taken good note in the communication from your excellency that the two treaties in question will terminate on May 10, 1919.

Accept [etc.]

J. LOUDON

Norway: Treaty of July 4, 1827

File No. 711.5721/23

The Secretary of State to the Minister in Norway (Schmedeman)

No. 180

WASHINGTON, December 28, 1917.

SIR: The Department has received your despatch No. 550, of October 30, 1917,² with regard to the abrogation of certain provisions

¹ Not printed. Notes are identical with paragraphs 2 to 5 of instruction No. 322, and paragraphs 2 and 3 of instruction No. 323, *ante*, pp. 3-5, with the date, May 10, 1919, inserted in the blank spaces in the instructions.

² Not printed.

found in Articles 13 and 14 of the treaty concluded by the Government of the United States with the Government of Sweden and Norway on July 4, 1827, which were affected by the so-called Seamen's Act of March 4, 1915. You enclose a copy of a note addressed to you by the Norwegian Minister for Foreign Affairs, under date October 29, 1917, from which it appears that the Government of Norway finds itself unable to agree to this Government's proposals with respect to an understanding as to the elimination of the treaty stipulations in question. In view of the attitude of the Norwegian Government in this matter, the Department desires that you address a note to the Minister for Foreign Affairs in the sense of the following:

Under instructions from my Government, I have the honor to give to the Royal Norwegian Government on behalf of the Government of the United States, the official notification contemplated by Article 19 of the treaty concluded by the Government of the United States with the Government of Sweden and Norway on July 4, 1827, whereby the operation of the treaty will terminate, in accordance with its terms, on ____.

As has been previously pointed out to the Government of Norway, the application of the fundamental principles of the act of Congress, approved March 4, 1915, to alien seamen within the territorial jurisdiction of the United States involved an abrogation of treaty provisions inconsistent therewith. The President, therefore, using the discretion which he considered was granted to him to interpret the act in the sense contemplated by Congress, authorized this Legation to propose an arrangement between the two Governments which would carry out the purpose of the act by the elimination of stipulations in the treaty of July 4, 1827, inconsistent with the act.

It has further been pointed out to the Norwegian Government that, in case no satisfactory understanding could be arrived at for the abrogation of these stipulations, other provisions of the treaty remaining in effect, a solution of the matter could only be found in the denunciation of the treaty in its entirety. It having become clear that the Norwegian Government finds itself unable to acquiesce in any of the proposals submitted to it by my Government with regard to such an understanding, the Government of the United States is therefore under the necessity of denouncing the treaty in its entirety. I have the honor to request that you be good enough to make acknowledgment to me of this notification.

Since the treaty by its Article 19 provides that it shall remain binding for 12 months following notice of denunciation, you will insert in your communication to the Foreign Office containing this notice a date for the termination of the treaty, precisely one year after the date of your note.

I am [etc.]

ROBERT LANSING

File No. 711.5721/25

The Minister in Norway (Schmedeman) to the Secretary of State

No. 679

CHRISTIANIA, February 10, 1918.

SIR: Referring to the Department's instruction No. 180 of December 28, 1917, with regard to the abrogation of certain provisions found in Articles 13 and 14 of the treaty concluded by the Government of the United States with the Government of Sweden and Norway on July 4, 1827, which were affected by the so-called Seamen's Act of March 4, 1915, I have the honor to confirm my telegram No. 516 of yesterday's date¹ informing the Department that, on February 2, 1918, I addressed a note to the Royal Norwegian Minister for Foreign Affairs as directed in the instruction above referred to, and quoting, in translation, the contents of a note dated the 5th instant which I received from him in reply. I enclose herewith copy and translation of the Foreign Minister's note and have the honor to report that, in acknowledging its receipt to his excellency, I have stated that it would be transmitted to my Government and that he would be informed of the reply as soon as received.

In accordance with the Department's instruction, the date for the termination of the treaty inserted in my communication to the Foreign Office containing the notice of denunciation was February 2, 1919.

I have [etc.]

A. G. SCHMEDEMAN

[Enclosure—Translation]

The Norwegian Minister for Foreign Affairs (Ihlen) to the American Minister (Schmedeman)

CHRISTIANIA, February 5, 1918.

MR. MINISTER: I have the honor to acknowledge the receipt of your note of February 2 last, in which you, on behalf of your Government, denounce the treaty of commerce and navigation concluded on July 4, 1827, between Norway (and Sweden) of the one part and the United States of America of the other part.

In your note you state that it has become clear that the Norwegian Government finds itself unable to acquiesce in any of the proposals which have been submitted by your Government with regard to an understanding for the abrogation of the stipulations of the treaty which are inconsistent with the act of Congress of March 4, 1915, and that, for this reason, the Government of the United States is under the necessity of denouncing the treaty in its entirety.

In this connection, I take the liberty of calling your attention to my note to you of October 29 last, in which I stated in regard to one of the two articles concerned, namely Article 14, that the Norwegian Government was prepared to accept an arrangement establishing its abrogation. With regard to the second of the two articles, namely Article 13, I inquired in the note whether an arrangement conceived in the terms set forth therein would be satisfactory to your Government, while reserving to myself the right to revert to the two alternatives of the arrangement in question contained in your note of May 9 last. It appears to the Norwegian Government that the note on this point must have occasioned the misunderstanding on the part of the United States that the Norwegian Government was unwilling further to discuss the proposal of the American Government.

¹ Not printed.

The Norwegian Government, which agrees with the American Government in its previously expressed desire to avoid the abrogation of the long treaty in its entirety, is still prepared to cooperate in bringing about an arrangement of the matter in question so as to eliminate the stipulations of the treaty which are inconsistent with the provisions of the act of Congress of March 4, 1915.

The Norwegian Government has given a proof of the accommodating spirit which it desires to show in this matter by the fact that the Norwegian Legation in Washington, as stated to the American Secretary of State in a *note verbale* of December 11, 1916, has instructed the Norwegian consuls in the United States not to apply or invoke any treaty stipulations which are inconsistent with the above-mentioned act of Congress as long as negotiations are pending in regard to a change in the treaty stipulations.

I have the honor to request that you will kindly inform me whether the American Government would be willing to explain the objection which it has to the Norwegian Government's proposal of October 29 last, concerning Article 13, as the Norwegian Government was of the opinion that such an arrangement would give full assurance of the elimination of any inconsistency between the treaty and the act of Congress.

As it appears from your note of February 2 last that your Government has not been able to consent to the proposal referred to, the Norwegian Government is willing to accede to the proposal put forward by the American Government, provided that the denunciation of the treaty contained in your note of the 2d instant ceases to have effect. The Norwegian Government would prefer an exchange of notes having in view the entire abrogation of the second paragraph of Article 13 rather than the other alternative contained in your note of May 9 last.

Thus, the Norwegian Government will be willing to exchange notes to the effect that the notice given by the American Government in regard to the stipulation in question of the treaty of 1827 be considered by both Governments as having had the effect that the 2d paragraph of Article 13 and the whole of Article 14 are abrogated.

Accept [etc.]

IHLEN

File No. 711.5721/23

The Secretary of State to the Minister in Norway (Schmedeman)

No. 234

WASHINGTON, May 31, 1918.

SIR: The Department has received your telegram of February 9, 1918,¹ in which you quote a note from the Norwegian Minister for Foreign Affairs respecting the denunciation of the treaty concluded July 4, 1827, by the Government of the United States with the Government of Sweden and Norway. The Department desires that you make reply to the Minister for Foreign Affairs in the sense of the following:

I have the honor to acknowledge the receipt of your note of February 5, 1918, with regard to the abrogation of certain provisions in the treaty concluded by the Government of the United States with the Government of Sweden and Norway, on July 4, 1827, which were affected by the so-called Seamen's Act of March 4, 1915. You acknowledge the receipt of my note of February 1 [2] last, in which, in behalf of my Government, I gave notice of the denunciation of this treaty because of the apparent inability

¹ Not printed. See despatch No. 679 of February 10, 1918.

of your Government to accede to any of this Government's proposals with regard to the abrogations of the particular stipulations of the treaty affected by the act of March 4, 1915. And you call attention to the proposal contained in your note of October 29 last, relative to this matter and request that you be informed as to my Government's objection to that proposal.

You state that your Government is now willing to consent to my Government's original proposal respecting the abrogation of the second paragraph of Article 13 and all of Article 14 of the treaty.

The following is the language of your note of October 29 last, setting forth your Government's proposal just mentioned:

The stipulations contained in the second paragraph of Article 13 of the treaty relative to the right of Norwegian consuls in the United States of America to exercise exclusive jurisdiction without the intervention of the local authorities are subjected to the modification resulting from the fact that Norway has consented to this right being considered as abandoned to the extent that it would otherwise be in conflict with the provisions forming part of Section 4 of the act of Congress of March 4, 1915, entitled the "Seamen's Act." It is understood that the arrangement shall not imply the consent of the Norwegian Government to the application to Norwegian vessels of Section 4 referred to.

Since Section 4 of the act of March 4, 1915, is applicable to Norwegian vessels as well as to all other merchant vessels, American and foreign alike, in ports of the United States, my Government could not regard as satisfactory any understanding with the Norwegian Government which contained a reservation such as that indicated in the last sentence of the above-quoted abstract from your note of October 29 last, respecting "the consent of the Norwegian Government to the application to Norwegian vessels" of Section 4 of the act of March 4, 1915. And since it seemed clear that no explicit understanding could be arrived at, the Government of the United States felt itself obliged to denounce the treaty in its entirety.

With regard to the statement in your note of February 5 to the effect that the Norwegian Government is now willing to consent to the proposal originally made by the Government of the United States relative to the abrogation of certain provisions of the treaty of July 4, 1827, I am directed by my Government to say that it prefers that the notice of denunciation of this treaty contained in my note of February 2 shall stand, and that the treaty shall terminate in accordance therewith. I am further directed to express the desire of my Government to take up at an appropriate time negotiations looking to the conclusion of a modern treaty of commerce and navigation that shall be responsive to the interests of both Governments.

I am [etc.]

ROBERT LANSING

Spain: Treaty of July 3, 1902

File No. 711.0021/131a

*The Acting Secretary of State to the Ambassador in Spain
(Willard)*

[Telegram]

WASHINGTON, December 27, 1918.

1930. Department's 765, April 4 last.¹ Report date inserted in note transmitted to Foreign Office pursuant to instruction.

POLK

File No. 711.0021/133

The Ambassador in Spain (Willard) to the Secretary of State

[Telegram]

MADRID, December 30, 1918.

2268. Department's 1930. Date inserted was May 8, 1919.

WILLARD

¹ See footnote 2 to instruction No. 322 to the Minister in the Netherlands, *ante*, p. 3.

GENERAL

BOUNDARY DISPUTE: HONDURAS AND NICARAGUA

Refusal of Nicaragua to Accept the Arbitral Award Rendered by the King of Spain in 1906; Good Offices of the United States; Commissioners sent to Washington

File No. 715.1715/10

The Honduran Minister (Membreño) to the Secretary of State

[Translation]

WASHINGTON, undated.

[Left at the Department, October 11, 1913.]

MEMORANDUM

On October 7, 1894, the Republics of Honduras and Nicaragua signed a convention for the demarcation of their boundary that was approved by their Congresses. It stipulated that a joint boundary commission should be appointed, composed of an equal number of members on either part, that would mark out the line, and that the points on which they could not agree should be submitted to unappealable arbitration. Rules were laid down for the constitution of the tribunal and the proceedings of the trial.

In accordance with that convention, the joint commission began its work and completed it from the Gulf of Fonseca to the Teotecasinte Gap. There disagreement began; there remained to be determined that part of the line running from the Teotecasinte Gap to the Atlantic Ocean.

In continued observance of the convention, the representatives of Nicaragua and Honduras met at the Spanish Legation in Guatemala City, and, in common accord, named the King of Spain, Don Alfonso XIII, for arbitrator to decide the question. That appointment which was made known to the Congress of Nicaragua by the Minister of Foreign Relations in his report of November 30, 1905, was approved, as were the other acts of the Executive power, by the National Legislative Assembly. Honduras, for her part, accepted the arbitrator as designated, and the King of Spain the office with which he was intrusted.

Nicaragua and Honduras appointed their counsel and the last-named Republic accredited a minister plenipotentiary to the Court of Madrid. Nicaragua already had one. The case was opened: each party submitted its case and rejoinder; these were accompanied by innumerable documentary proofs which had been copied for a period of 20 years or more from the archives of Spain and America; men most prominent in Spain for their knowledge and integrity intervened in the dispute; and after laboring two years (1905 and 1906) the King handed down his award on the 23d of December 1906, which makes the dividing line between Honduras and Nicaragua run along the Segovia and Poteca Rivers, and from the confluence of the last-named river with the Guineo or Namasli, names one or several lines to the Teotecasinte Gap.

The award was accepted by the Governments and Congresses of both Republics, the Minister of Foreign Relations of Nicaragua add-

ing that "there being obscure and even contradictory points, he had instructed Minister Don Crisanto Medina to ask that they be elucidated." It does not appear that such a request has been made. The Congress of Honduras issued a decree No. 27, of February 4, 1907, which recognizes the validity of titles delivered by Nicaraguan authorities to land remaining under Honduran jurisdiction under the award, subject to the sole condition that the titles be recorded in the Honduran registers.

The war waged by Nicaragua against Honduras two months after the award was pronounced, and the new President installed in the last-named Republic after Nicaragua's victory, did not permit of the award being executed for a period of five years. Then came the political change in Nicaragua caused by President Zelaya's overthrow and in Honduras by President Davila's resignation, and when Dr. Don Francisco Bertrand, named by the Tacoma Conference to exercise the presidency of Honduras, was about to assume his office, he received from the Minister of Gobernación of Nicaragua a telegram saying that the first brotherly demonstration that Government would give to the Government of Honduras would be the full recognition of the arbitral award of the King of Spain.

Although the dividing line set by the award is a natural one in nearly all its length, the small part from the confluence of the Poteca River with the Guineo or Namasli to the Teotecasinte Gap must be marked on the ground. On April 25, 1911, the Minister of Foreign Relations of Honduras wrote to that of Nicaragua a courteous note asking that an agreement be reached for the marking of the line.

The note was answered by the Nicaraguan Chancellery on March 19, 1912, thanks to the action taken on several occasions by the representatives of Honduras. Nicaragua, after accepting the award, now claims that all that has been done since the appointment of the arbitrator is of no effect because of non-observance of the provisions of the boundary convention, and further that there are difficulties in the execution of the award. Lastly, the Government of Nicaragua declines to comply with the award until it shall have been declared valid by the Nicaraguan Assembly. Honduras, by note of July 12, 1912, calls its attention to the fact that the convention was executed as intended by the Governments and Congresses since they knew and approved all that was done, and that the award being unappealable under the convention, there is nothing for the Legislature of Nicaragua to do. No reply has been made to that note.

The remainder of the line to be marked, from the confluence of the Poteca with the Teotecasinte Gap, offers no difficulty. Neither is there anything in store for the owners of land, mines, etc., in the part awarded to Honduras, as the Government of that Republic recognizes them as lawful owners, under the decree of February 4, 1907, confirmed on the 7th of April 1911. If any obstacle should come up as to the mouth of the river or its navigation, Honduras, upon examination of such statement as Nicaragua may make, is ready to enter upon a friendly agreement. Since civilization has made a dogma of the free navigation of rivers, Nicaragua need not apprehend that her sister and neighbor Honduras will show difficulties in the enforcement of her revenue regulations or measures of safety.

File No. 715.1715/10

The Secretary of State to the Minister in Nicaragua (Jefferson)

No. 8

WASHINGTON, December 2, 1913.

SIR: The Department transmits, herewith, for your information, a translation of a memorandum concerning the boundary line between the Republics of Honduras and Nicaragua. This memorandum was handed to the Secretary of State by Mr. Alberto Membreño, the Minister from Honduras, with the request that the Government of the United States use its good offices with the Government of Nicaragua in order to suggest that the arbitral decision, as given by His Majesty, the King of Spain, in the year 1906, be respected by Nicaragua.

To this end you may seek a suitable opportunity and suggest to the Minister of Foreign Affairs of Nicaragua that the Government of the United States, moved by the feeling of sincere friendship which it entertains for the Republics of Nicaragua and Honduras and having at heart the interests and well-being of both those countries, would view with great satisfaction the early settlement of the misunderstanding, which unfortunately exists between those two countries, as to the line of demarcation of their frontier.

The Government of the United States understands that in the year 1904, the Governments of Nicaragua and Honduras signed a convention for the purpose of defining their boundary and that a mixed commission was afterwards appointed for the actual work of demarcation; and that still later, in the year 1905, the King of Spain was asked as arbitrator to decide the questions arising from the difference of opinion which occurred in the tracing of the frontier line from the Pass of Teotecasinte and the Atlantic coast. After the arguments of both parties were presented and carefully studied, the King of Spain pronounced his decision.

As the agreement to accept the arbitral decision of the King of Spain was entered into in entire good faith by both contracting parties, and as the decision was, as the Department is advised, admitted to be valid, there would not appear to be any good reason why the Government of Nicaragua should decline to cooperate with the Government of Honduras in bringing the matter to a speedy termination. It would be a matter for deep regret if any detriment should come to the beneficent operation of the principle of arbitration through the failure of either Government in the present instance to give full effect to the award of the arbitration.

I am [etc.]

For the Secretary of State:
J. B. MOORE*The Secretary of State to the Minister in Nicaragua (Jefferson)*

[Telegram]

WASHINGTON, January 21, 1914, noon.

Referring to Department's instruction of December 2, No. 8, regarding Honduran-Nicaraguan boundary award of arbitration, cable present status of your representations to Foreign Office in premises and what reply, if any, made by Nicaraguan Government.

BRYAN

File No. 715.1715/12

The Minister in Nicaragua (Jefferson) to the Secretary of State

No. 46

MANAGUA, January 28, 1914.

SIR: Referring to the Department's instruction No. 8 of December 2, 1913, in which was enclosed a memorandum handed to the Secretary of State by Mr. Alberto Membreño, the Minister from Honduras, concerning the boundary line between the Republics of Honduras and Nicaragua and the request of Mr. Membreño that the Government of the United States use its good offices with the Government of Nicaragua in order to suggest that the arbitral decision, as given by His Majesty, the King of Spain, in the year 1906, be respected by Nicaragua, I have the honor to enclose herewith a copy of note with enclosures from the Foreign Office in answer to my representations in the premises.

Owing to the fact that the enclosures herewith have just been received, despite persistent effort to obtain them at an earlier date, and because the pouch must be closed immediately in order to be placed on board the mail steamer, it has been impossible to make translations.

I have [etc.]

BENJAMIN L. JEFFERSON

[Enclosure—Translation]

The Nicaraguan Minister of Foreign Affairs (Chamorro) to the American Minister (Jefferson)

MANAGUA, January 28, 1914.

MR. MINISTER: I have the honor to refer to your excellency's esteemed note of the 9th instant, in which you are pleased to inform me that the Minister of Honduras at Washington presented to the State Department of the United States a memorandum regarding the boundary line between Nicaragua and Honduras, with the request that your excellency's Government use its good offices before the Nicaraguan Government in securing the fulfilment of the arbitral award rendered by His Majesty the King of Spain in 1904 [1906].

Your excellency further sets forth that you have instructions from your Government to state on its behalf to mine that, as it is animated by the best feelings of friendship toward the two Republics, it would be very much gratified to see an early termination of the disagreement existing between the two interested Governments in connection with the boundary line between the two countries.

Your excellency goes on to give a brief outline of what you understand has been done from the time that a convention defining this boundary was signed in 1904 up to what your excellency considers an acceptance of the arbitral decision on the part of Nicaragua, and you conclude by expressing the hope that an early arrangement may be reached by virtue of the fact that in your judgment there is no apparent reason why Nicaragua should decline her cooperation in this respect with the Government of Honduras to the end that the beneficial application of the principle of arbitration may suffer no detriment in the present case.

Besides the documents relating to the present affair, which I have the honor to enclose and which I trust will serve to enlighten your excellency's broad judgment in this important matter, I take the liberty of enumerating the following grounds which my Government has for considering, with deep regret, that the arbitral award of His Majesty the King of Spain, which so gravely impairs the indisputable rights of Nicaragua over an extensive territory, is of no validity until sanctioned by the National Congress.

1. Because the designation of His Majesty the King of Spain as arbitrator was in open violation of the agreement contained in Articles 3 and 5 of the convention concluded in 1894 between the representatives of the two countries, J. D. Gámez and C. Bonilla, who had no power whatever to

vary the stipulations of the said convention, such an alteration being possible only by virtue of a new convention duly approved and ratified by the high legislative bodies of the two parties, this circumstance invalidating from its start the action of His Majesty the King of Spain as arbitrator of the boundary dispute between Nicaragua and Honduras.

2. Because the powers clearly defined in the aforementioned convention were exceeded in the award when the Royal arbitrator granted compensations which come solely within the jurisdiction of the mixed commission duly composed of representatives of both countries according to Rule 6 of Article 2, this fact alone likewise rendering the award null and void.

3. Because the obscurity and contradictory character of the said award is another sufficient cause of invalidity, since they render the provisions of the award inapplicable, as the Minister of Foreign Affairs, José D. Gámez, himself declared in December, 1907, when giving an account of his acts to the National Legislative Assembly—of the acts relative to the demarcation of the boundary line. "The award in question," he says, "contains, moreover, some contradictory points which render its practical application difficult, for which reason our Minister in Spain has been ordered to request an elucidation which will remove the difficulties to which the interpretation of these points by the very parties interested in the matter might give rise, etc."

4. Because the aforementioned instrument of arbitration contains errors which render it void and also make its application impossible.

And notwithstanding the reasons set forth, which are in themselves sufficient to invalidate the award, I will take the liberty of making the following observations to your excellency besides:

1. Nicaragua has not made any official declaration regarding the acceptance of the award of His Majesty the King of Spain.

2. The Executive has no power, unless expressly delegated to him, to carry out by and before himself an arbitral award which modified a solemn treaty, and still less to validate it, for both these things devolve upon the National Congress, and therefore any act in this behalf on the part of the Executive would be null and void.

3. The general approval given by the National Assembly in 1907 to the acts of the Executive in the Department of Foreign Affairs, when Minister Gámez deemed it necessary to request an elucidation of the award for his own application thereof, did not imply an approval of the acts of the representatives of Nicaragua in violation of the Gámez-Bonilla convention, which is the basis and foundation of the works of demarcation, which, as I said before, required the special approval by the National Congress of the new treaty to be concluded in modification of the previous one, nor did it mean the acceptance by Nicaragua of any act arising from subsequent arrangements in contravention of said convention.

As I had the honor to state to the Department of Foreign Affairs of Honduras in a communication dated March 19, 1912, my Government thinks that, in view of the arguments in its favor and of its lack of authority to accept the award, this question ought to be submitted to the National Sovereign Congress in order that this august body may point out the just and safe mode of procedure.

I will not conclude without first expressing to your excellency the thanks of my Government for the friendly interest which your Government has been disposed to show in this vexing question, and without furthermore stating that my Government, being convinced of the justice of its cause, of the enlightened and upright judgment so honorably characterizing His Excellency the President of the United States, and of the sincere friendship of the people and Government of the United States, would, in order to demonstrate its keen desire to bring the present boundary dispute with Honduras to a prompt and equitable conclusion, accept with deep satisfaction the good offices of your excellency's Government in referring the present case of the demarcation of the boundary between Nicaragua and Honduras to the final and unappealable decision of His Excellency President Wilson, upon previous compliance with all legal requirements.

I trust that this friendly disposition on the part of Nicaragua will convey to your excellency's mind the assurance that my Government will accept

an award which is free from the defects that I have been under the painful necessity of pointing out to your excellency and which does full and exact justice to the party that is in the right, after a careful examination of the arguments and circumstances on both sides, thereby affording my Government an opportunity to defer to a just award which will stop up the only source of discord with our sister Republic Honduras, as was done on another occasion when the boundary dispute with Costa Rica was referred without any observation to the arbitral decision of His Excellency President Cleveland, notwithstanding that award was unfavorable to Nicaragua.

I avail [etc.]

DIEGO M. CHAMORRO

[Subenclosure 1—Translation]

The Honduran Minister of Foreign Affairs (Davila) to the Nicaraguan Minister of Foreign Affairs (Chamorro)

TEGUCIGALPA, April 25, 1911.

MR. MINISTER: In view of the fraternal and friendly relations which happily exist between Nicaragua and Honduras, and as it is to our mutual advantage that the most perfect harmony should exist in everything relating to the fulfilment of the award which put an end to the boundary question which had arisen between the two countries. I have the honor, under instructions from the President of the Republic, to inform your excellency that my Government, in accordance with the aforementioned award and with the legislative decree of February 4, 1907, has begun to perform acts of sovereignty and ownership (dominion) on the ground contiguous to Nicaragua along the recently marked boundary line, and has consequently designated the necessary authorities or officials, who have already been given instructions, orders, and circulars through the proper organ to organize that section of the country politically and administratively as soon as possible.

I also deem it opportune to state to your excellency that my Government has entered into arrangements with the concessioners or holders of lands comprised within the territory of Honduras, all of which is for the purpose of preventing obstacles in future from embarrassing the administration of the two nations, between which there should for various reasons always be the most perfect concord as well as the most sincere reciprocity.

Actuated by these same sentiments of conciliation and friendship, it has endeavored to facilitate everything connected with the recording of titles to real estate, as well as of concessions and of any lucrative dominion over the lands in question, and with this end in view the National Congress has issued the decree of the 6th instant granting a further period of one year within which to record the titles mentioned, of which decree I take pleasure in enclosing a copy to your excellency.

In addition to what has already been done in the way of determining the real boundary line between that and this Republic, it will be well to proceed to mark out the small part extending, according to the final paragraph of the award, from the confluence of the Poteca or Bodega River with the Guineo or Namasli River as far as El Portillo de Teotecasinte, since the award marked the remainder of the line with natural boundaries; and for this purpose my Government will communicate with your excellency's Government as soon as convenient to the end that this operation may be carried out by common accord.

I indulge the hope that all the measures which I have mentioned will, by facilitating the final execution of the award, contribute unmistakably toward rendering more harmonious and friendly the relations which fortunately exist between Honduras and Nicaragua, thus obviating any kind of trouble.

I avail [etc.]

F. DAVILA

[Subenclosure 2—Translation]

The Nicaraguan Minister of Foreign Affairs (Chamorro) to the Honduran Minister of Foreign Affairs (Davila)

MANAGUA, March 19, 1912.

MR. MINISTER: I have the honor to answer your very esteemed note of April 25, 1911.

In it your excellency is pleased to state that, in order to strengthen the friendly relations happily existing between Nicaragua and Honduras and in

order to secure the greatest harmony in carrying out the award of His Majesty the King of Spain, you have to inform my Government that, in accordance with said award and with the legislative decree of February 4, 1907, the Government of Honduras has begun to perform acts of sovereignty and dominion in the territory bordering on Nicaragua along the boundary line recently traced, according to your excellency's expression, it having furthermore proceeded to designate the proper authorities, to whom instructions, orders, and circulars have already been sent to organize that section of the country administratively and politically.

Your excellency also deemed it opportune to inform my Government that arrangements have been made with the concessioners or owners of lands comprised within the territory of Honduras, endeavor being made to facilitate all matters connected with the recording of titles to real estate, concessions, and any lucrative dominion over the lands in question, there having been issued, with this end in view, the legislative decree of April 6, 1911, by which the National Congress grants a further period of one year within which to record the titles mentioned.

Your excellency furthermore points out the expediency of demarcating that part of the line which extends from the meeting point of the Poteca or Bodega River with the Guineo or Namasli River to El Portillo de Teotecasinte, and you promise to write again to my Government in due time so that this demarcation may be done by common accord.

Your excellency concludes by expressing the hope that all these measures may tend not only to facilitate the execution of the award but also to render more friendly and harmonious the relations which fortunately exist between the two sister Republics.

I regret, Mr. Minister, that I absolutely disagree with the ideas expressed in your aforementioned note, and, while confirming here the ideas set forth in my communication of November 27 of last year in regard to the same matter and addressed to the Honorable Chargé d'Affaires of Honduras, Dr. Saturnino Medal, I will take the liberty of observing to your excellency that, inasmuch as the part of the boundary line to which you refer has not yet been formally traced and as this operation can not be performed or the points identified which you call natural boundaries by a single one of the parties without the cooperation of the other (which has equal rights in the premises), even if it were a question of an incontestable decision my Government would be under the painful necessity and duty to consider unacceptable and void the proceedings which interrupt the *status quo* established between the two contiguous nations and which, for the sake of maintaininginalterable the fraternal relations which bind together our peoples and Governments, has been respected by both countries since before the convention concluded on September 1, 1870, by Commissioners Ferrer and Uriarte, the provisional boundary line observed being that descending from the mountain range and ending at Cape Falso, by virtue of which fact Nicaragua has maintained her authorities from the judicial and administrative region of Cabo Gracias á Dios to the Laguna de Caratasca.

The removal of these authorities and the acceptance of the other acts performed by Honduras without the participation or acquiescence of my Government would be tantamount to disregarding the sovereignty which Nicaragua has exercised in that region almost since her separation from the dominion of Spain, this being a claim which would only be admissible in case the supreme authorities of this Republic would recognize as an actual fact that this extensive zone of the Nicaraguan territory has been segregated, for otherwise the Government would be responsible before the nation for the undue abandonment of a large part of its territory without there first being rendered a clear, really valid, and actually binding award, which circumstances this Government unfortunately does not find to exist in the award rendered by His Majesty Alfonso XIII, King of Spain.

The Gámez-Bonilla treaty, concluded between Nicaragua and Honduras and finally ratified by both legislatures, defines clearly and precisely the essential conditions which must be fulfilled by the arbitral award in order that it may be binding upon the contracting nations.

This treaty prescribes the form and order in which the appointment of the arbitrators was to take place in order that they might in this capacity decide the boundary question between Nicaragua and Honduras as regards the section where the commissioners of the two Republics were disagreed, and as His

Majesty the King of Spain was designated in violation of these provisions of the treaty mentioned, the organization of the arbitral proceedings as effected was void from its inception.

The high contracting parties agreed to have their boundary finally defined by a mixed commission composed of delegations from both Republics; and Article 2 of the aforementioned treaty not only confers upon this commission the necessary powers for the purpose, but it lays down beforehand the procedure to be followed in its operations.

Article 3 of the treaty provides that any point or points on the line of demarcation which the mixed commission might not have settled should be submitted, within a month at the latest from the termination of the sessions of the commission, to the decision of an unappealable arbitral tribunal, to be composed of one representative of Nicaragua, another of Honduras, and one member of the Foreign Diplomatic Corps accredited to Guatemala, the latter to be selected by the former two, or drawn by lot from two sets of three candidates each nominated by each party.

The two Republics did actually carry out this convention, appointing their respective commissions, which united to form the mixed commission, and the latter proceeded to the common frontier and traced the line from the starting point on the Pacific Ocean to El Portillo de Teotecasinte, setting up landmarks at the vertices formed by the lines of demarcation, taking as the sole dividing line between the two territories the great Dipilto Mountain Range at its upper line, where the waters divide and run to either side of the range.

Without any reason whatever that was justifiable according to the Nicaraguan commission, the Honduran commission dissented, claiming that the mountain range should remain within the Honduran territory and that the boundary line should follow the bed of a tributary of the Coco River called Guineo, then continuing first via the Poteca and afterwards via the Segovia River until reaching a certain point, whence it should continue southward on the meridian until it came to a river which should end in Sandy Bay.

Having rejected so radical a demand, the Nicaraguan commission proposed another scheme according to which the line should continue on the mountain range until it met the origin of the Frio River, and then continue along the meridian which passes through Trujillo.

Discord having thus arisen, the part of the line in dispute remained unmarked, and steps were taken to carry out the provisions of Article 3 of the aforementioned treaty; for which purpose the Nicaraguan Government, in a resolution dated August 25, 1904, appointed José D. Gámez arbitrator, the Honduran Government appointing Alberto Membreño, which persons proceeded to Guatemala to perform their duties; but these arbitrators, contrary to the provisions of Article 3 of the treaty mentioned, did not form themselves into a tribunal comprising one member of the Foreign Diplomatic Corps for the purpose of marking the boundary line, as they should have done according to the provisions of Article 4 of the said treaty, but convened with the representative of the King of Spain, and without fulfilling the requirements of Article 5 of the treaty, appointed His Majesty the King of Spain as arbitrator.

The arbitrators Gámez and Membreño ought to have appointed as umpire (third arbitrator), according to the arbitration treaty, the person who should be drawn by lot from among the members of the Diplomatic Corps, making the selection over and over again in cases of refusal to serve until the members of that corps had been exhausted, in which sole event the appointment as arbitrator might have fallen to some public personage, foreign or Central American, and as a last resort the point or points in controversy might have been submitted to the decision of the Spanish Government, and in default of His Majesty the King of Spain, to any of the South American Governments to which the interested foreign offices might agree. The arbitrators Gámez and Membreño overlooked all these provisions, thereby violating a positive agreement and assuming an authority which they did not possess and which was only conferred upon them in the last case mentioned in Article 5 of the treaty in question.

It is an obvious truth in the law which governs nations that treaties should be fulfilled in the terms in which they were concluded, and that any modification or alteration of a solemn compact like the Gámez-Bonilla treaty is without force and can not be sanctioned except by the same authorities that concluded it, and then under the same solemnities of approval and exchange of ratifications.

If, then, the representatives of the two countries, without any authorization and without the treaty being first amended or revised by both Republics, disregarded the express will (of the parties), positively stated and solemnly agreed upon, by not first calling upon the members of the Diplomatic Corps as arbitrators in the order prescribed in Articles 4 and 5, they violated the treaty and consequently made an appointment which was null and void.

The very contracting parties, Nicaragua and Honduras, could not revise this treaty except by concluding another one with like formalities through lawfully appointed plenipotentiaries, and such a revised treaty would have no force until ratified by the respective legislatures and until the usual exchange of ratifications had taken place; and the failure to fulfil these formalities nullifies all that was done by His Majesty the King of Spain as an arbitrator whose appointment was void; nor can the nullity be considered removed by express or tacit agreement of the Governments of Nicaragua and Honduras or by their participation in the debates which preceded the award, for, as said before, it was not within the power of the Executives of these countries to depart from a treaty approved by the respective Congresses, especially on as important a point as the determination of the competency of an arbitrator.

My Government hopes that the foregoing will suffice to convince your excellency that the question now before us will not be finally settled until the legislatures of both countries have given their solemn approval to the final decisions and settlements, and that therefore the rights of both parties are in the same situation as when the regrettable disagreement occurred between the boundary commissions of Nicaragua and Honduras.

It is not my intention, nor is this the occasion to renew the discussions on the vexing subject of territorial division, which has already been argued in the long controversy maintained in this regard between Nicaragua and Honduras, but I should be failing in my duty if I did not take the liberty of laying before your excellency's high and just consideration the various observations which arise from a mere perusal of the award.

It is a principle sanctioned by all writers on international law that everything decided upon by arbitrators beyond their authority is null and void, and in the present case the non-observance of this principle appears plainly in the text of the award when powers are used which Rule 6 of Article 2 of the Gámez-Bonilla treaty confers exclusively upon the mixed commission, in regard to compensations, and by no means upon the arbitral tribunal of Guatemala or upon His Majesty the King of Spain.

It is also a universal principle that contradictory awards lack validity and are unenforceable, and the award plainly contradicts itself in dealing with the section of the line which is to separate the jurisdiction of the two countries in the territorial waters, for after adopting as a standard for the direction of the line the thalweg or deepest line of the channel of the stream of the principal arm of the Coco River, it declares that the islets or keys situated in said arm belong to Honduras, which leads to the inconsistency of leaving Honduran territory enclosed within Nicaraguan waters, which circumstance also renders the aforementioned thalweg line void, besides the fact that no decision is given as to the direction which should belong to each Republic in the sea according to the law of nations as a part of its respective territory.

And if all the foregoing were not sufficient, the award would be invalidated by the errors contained in this decision, which render it inapplicable in the field of the demarcation.

The award mentions a town by the name of Hara, which does not exist, and as this town is the one which serves in the award to determine the principal arm of the Coco River, it follows logically that the award decides nothing in regard to this essential point of the question. It furthermore assumes that between the island of San Pio and the geographical point appearing on one map under the name of Hara (it might be different or be entirely absent on another map, in view of the inaccuracies of our maps) there is but one single branch of the river, whereas in reality there are two or more, which circumstance leaves the line unestablished in a determinate and indubitable manner.

The present city of Cabo de Gracias á Dios, chief town of the *comarca* (region) of the same name, is not situated at the point indicated in the award, nor is there any evidence that the award might refer to the other town of the *comarca*, likewise known and also administered by Nicaragua.

Apart from other observations regarding the award, which Nicaragua will present in due time if necessary, I will take the liberty to add those which are suggested by the very nature of both territories.

The Segovia River has always belonged to Nicaragua, for the province of that name comprises the Department of Segovia, which is situated in its northern part. Within this department are situated the Segovia River and its tributaries, all of the 18 towns which were formed on either shore before and after the conquest being Nicaraguan, such as Santa Maria, Dipilto, Macuelizo, Somoto, Ocotal, Mosonte, Totogalpa, Telpaneca, Jicaro, Ciudad Veija, Ciudad, Antigua, Jalapa, Teotecasinte, Opoteca, Condega, Yalaguina, Palacaguina, and Pueblo Nuevo.

Thus, then, if the declaration that the Segovia or Coco River also belongs to Honduras in any part of its course were to become effective, the unjustifiable absurdity would follow that the Government of that Republic, exercising the sovereignty granted to it there, would establish authorities and custom houses solely to tax goods which, along that commercial route, enter and depart from the towns of the interior of Nicaragua, for no Honduran town has access to the said river, being separated therefrom by the inaccessible Dipilto mountain range.

In view of the foregoing considerations, my Government believes that, as it has no power to admit the validity of the award, this painful question will have to be submitted to the National Assembly in order that this high body may indicate to it the just and safe mode of procedure, and that meanwhile the *status quo* ought to be maintained in the disputed zone, unless there should occur a friendly and equitable adjustment, which is the most worthy and appropriate between brother peoples and neighbors.

I trust that your excellency will be just in recognizing the sound arguments on which Nicaragua bases her action when, without disrespecting the august decision of His Majesty the King of Spain (to whom my Government is glad to render the homage due his high station), and likewise without disregarding either the feelings of cordial friendship entertained by Nicaragua toward the noble Honduran Nation and toward its illustrious Government, or the spirit of loyal Central American confraternity which has always animated the Nicaraguan people and which is to-day again the inspiration of its Government, she deems the award of His Majesty the King of Spain unacceptable in view of the observations made, and without any force until the Royal decision is sanctioned by the National Assembly, which will give final legal force to this arbitral decision as far as Nicaragua is concerned.

I avail [etc.]

DIEGO M. CHAMORRO

File No. 715.1715/29

The Chargé in Honduras (Curtis) to the Secretary of State

[Telegram]

TEGUCIGALPA, July 2, 1918, 5 p. m.

Minister for Foreign Affairs this morning has given me a copy of a telegram to the Commandant of Arms at Danli, dated Oeotal, June 20, from the political chief and Commandant of Arms of Nueva Segovia, Nicaragua, who declares that Las Trojas near Teotecasinte is in Nicaraguan territory since that country has never recognized the award of the King of Spain; that therefore Nicaragua has exercised and does and will exercise jurisdiction over certain territory including Las Trojas, and that as the addressee refuses to recognize the right of Nicaragua to do this, he will send sufficient military forces to occupy said places and the Honduran forces and authorities should be withdrawn. The Minister for Foreign Affairs says that the matter was immediately brought to the attention of the Nicaraguan Minister who on the 29th reported that he had received telegram from his Government saying that orders had been sent, that no troops should be moved, and that everything in the nature of hostilities should be avoided. Late yesterday afternoon, however, a telegram was received from Danli reporting that the political chief

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of Nueva Segovia had invaded Honduran territory as far as Las Trojas and Potrerillos with 100 infantry and 40 cavalry, thoroughly destroying crops and sending men and women to Nicaragua as prisoners.

The Minister for Foreign Affairs spoke feelingly of the need for a permanent settlement of all boundary disputes and of the great assistance which the United States could give either by its influence on Nicaragua or formal mediation, and I answered him that he could count on the good offices of the Government of the United States to prevent war between the two countries.

Upon my return from the Foreign Office I found the Secretary to the President waiting to give me the same information and to say that the latter hoped that the United States would help Honduras to reach a peaceable settlement. He mentioned the word "mediation," so I inquired whether an offer of such by us would be accepted if made, to which he replied emphatically that the President would welcome it gladly.

I am sending a copy of this to the Legation in Nicaragua for its confidential information.

CURTIS

The Secretary of State to the Minister in Nicaragua (Jefferson)

[Telegram]

WASHINGTON, July 4, 1918, 7 p. m.

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Department has received cable from Legation Tegucigalpa dated July 2, stating that the Minister for Foreign Affairs of Honduras had informed Legation that Commandant of Arms at Danli had telegraphed that Nicaraguan forces (100 infantry and 40 cavalry) under political chief of Nueva Segovia had invaded Honduran territory as far as Las Trojas and Potrerillos, destroying crops and sending men and women to Nicaragua as prisoners.

You are instructed immediately to request full information from Government of Nicaragua as to the above report, which, you may say, if true might seriously affect the tranquillity of Central America. You may add that the Government of the United States, particularly at this time, is most interested in aiding in any way in its power to promote tranquillity throughout the Western Hemisphere.

LANSING

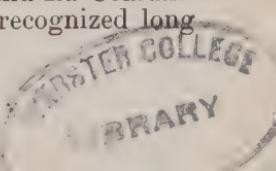
File No. 715.1715/31

The Minister in Nicaragua (Jefferson) to the Secretary of State

[Telegram]

MANAGUA, July 8, 1918, 10 a. m.

Department's July 4, 7 p. m. President Chamorro informed me that Nicaragua made protest, through the Honduran Minister here, that the territory including Las Trojas, Potrerillos, and La Comunidad, whose seat of Government is Jalapa, has been recognized long



time as Nicaraguan territory and that the Minister did not contradict Nicaraguan ownership and authority.

Chamorro stated that the only forces sent were the revenue guard comprising about 25 to 40 men, and the purpose of their action was to apprehend contrabandists who make a practice of smuggling tobacco across the border; that the only arrests made were for this purpose, that all were Nicaraguans except one, and also that the commandant of arms did not destroy crops, but he did destroy the contraband tobacco.

The President stated that he had the boundary question, through his Minister Montalvan, now on special mission to Honduras, with the hope that President Bertrand will agree to submit this question for final award to the Chief Justice of the Supreme Court of the United States, as arbitrator [sic], and that he especially desires the most friendly relations to continue between Honduras and Nicaragua.

His objections to the award of the King of Spain are practically as reported in second paragraph my telegram of January 29, 9 a. m., 1914.

I am of the opinion that this matter can be easily settled if President Bertrand will agree to submit case to Washington.

This matter not now of public interest here.

JEFFERSON

File No. 715.1715/29

The Secretary of State to the Chargé in Honduras (Curtis)

[Telegram]

WASHINGTON, July 8, 1918, 5 p. m.

You may inform the Government of Honduras that the Government of the United States sincerely trusts that the reports are not true in regard to the raids of Nicaraguan forces and hopes that an investigation will show that the facts do not warrant these reports. You will add that as the Government of the United States is most interested in seeking to aid in preserving the tranquillity of Central America, it will be ready, upon receipt of result of careful investigation, which it hopes both Government of Honduras and Government of Nicaragua will make in this connection, to give careful consideration to the request of the Government of Honduras that the Government of the United States use its good offices to bring about a settlement of the boundary dispute now existing between Honduras and Nicaragua.

The Department has cabled the Legation at Managua, instructing it to ask Government of Nicaragua if reports of raid are true and to state that it trusts that the rumors are not founded upon facts inasmuch as the peace of Central America might be seriously affected if such action has been taken by Government of Nicaragua. Report developments by cable.

LANSING

File No. 715.1715/31

The Acting Secretary of State to the Chargé in Honduras (Curtis)

[Telegram]

WASHINGTON, July 12, 1918, 5 p. m.

Your July 4, 1 p. m.¹ Department in receipt of telegram from Am[erican] Legation, Managua, to the effect that the President of Nicaragua has stated that Las Trojas, Potrerillos, and La Comunidad, whose seat of government is Jalapa, are in Nicaraguan territory; that only revenue guard entered this territory to stop smuggling; that only smugglers were arrested, among whom was only one Honduran; that no crops were destroyed excepting certain contraband tobacco.

President Chamorro further stated that he would be pleased to submit this boundary question to the Chief Justice of the Supreme Court of the United States as arbitrator, and that he especially desires the most friendly relations to continue between Honduras and Nicaragua.

You may convey this information to Honduran Government, stating at the same time that you have no doubt but that should the Government of Honduras likewise intimate a desire to the Government of the United States to use its good offices in endeavoring to settle this boundary dispute, this Government would be pleased to aid in effecting such settlement.

Report by cable.

POLK

File No. 715.1715/90

The Chargé in Honduras (Curtis) to the Secretary of State

[Telegram]

TEGUCIGALPA, July 16, 1918, 3 p. m.

Your July 12, 5 p. m. The President this morning expressed his strong desire for the mediation of the United States for the purpose of reaching an agreement with Nicaragua for the final settlement of the boundary dispute. The Honduran Government desires arbitration and wishes greatly the following:

1. The President of the United States to be the arbitrator; since his decision would carry greater weight than that of the Chief Justice of the Supreme Court.
2. It should be stipulated in the strongest possible terms that the decision shall be binding; this was stipulated in his telegram resulting in the award of the King of Spain which was first accepted but later rejected by Nicaragua.
3. The arbitrator shall advise in the first place whether the two Governments must accept and carry out the award of the King of Spain.

¹ Not printed.

4. If he decides the last preceding question in the affirmative, the arbitration is concluded, but if in the negative, he shall proceed to decide what is the correct line.

5. The line fixed by the King of Spain shall be respected until the award of the present arbitrator pronounced.

I have been shown telegrams indicating that Honduras has had auxiliary mayors in the two villages for the last eight years, and the President informs me that Nicaragua sent troops into them somewhat over a year ago, but withdrew them in view of the protest made by Honduras.

CURTIS

File No. 715.1715/81

*The Acting Secretary of State to the Minister in Nicaragua
(Jefferson)*

[Telegram]

WASHINGTON, July 17, 1918, 4 p. m.

Your July 8, 10 a. m. The Department is in receipt of an official note from the Honduran Minister in Washington setting forth that 140 men under political chief of Nueva Segovia had raised Nicaraguan flag over town of Las Trojas after taking possession of the place and burning houses and destroying crops. Honduran Government affirms that this place has always been under jurisdiction of Honduras and states that it will be forced to send troops to sustain its rights and protect its honor if Nicaraguan forces are not withdrawn. Government of Honduras asks good offices of Government of the United States to bring about withdrawal of Nicaraguan forces. Department upon receipt of your July 8, 10 a. m., offered its good offices to Government of Honduras to aid in effecting settlement of boundary dispute if Honduras so wishes, and at the same time informing that Government that the Government of Nicaragua had suggested submitting dispute to Chief Justice Supreme Court. Honduras has not yet replied to Department's offer of good offices.¹

You are directed to use your most tactful efforts to prevail upon President Chamorro immediately to order withdrawal of his men from disputed region, pending some satisfactory amicable settlement. You may reiterate last part of second paragraph of Department's July 4, 7 p. m., adding that the cause for which United States and Nicaragua are battling would be seriously jeopardized should any disturbance occur in Central America, which disturbance might be taken advantage of by the enemy.

Government of Honduras claims that Maximo B. Rosales is now in Nicaragua and that he is engaged in revolutionary activities against Honduras in which he is not being prevented by Nicaragua. Investigate and report. If you consider advisable, you may suggest to Chamorro that he withdraw his forces to Jalapa, and inform him that the United States has suggested to the Government of Honduras that it retain its forces at Danli.

POLK

¹ The reply of Honduras (see preceding document) was not received until after this telegram was forwarded.

File No. 715.1715/35

The Minister in Nicaragua (Jefferson) to the Secretary of State
[Telegram]

MANAGUA, July 22, 1918, 3 p. m.

Department's July 17, 4 p. m. President Chamorro informed me that he has removed all of his revenue guard from the vicinity of Las Trojas and that he has reports from his special agent there that all is very quiet on the border. Also he informed me relations with Honduras have improved and they are endeavoring to arrive at an amicable and final settlement of the question.

In regard to General Rossales, he left here some three weeks ago for Salvador. During his stay in Nicaragua I did not learn of his engaging in revolutionary activities against Honduras. He bought and made small shipments of corn and rice to Salvador.

JEFFERSON

File No. 715.1715/39

The Chargé in Honduras (Curtis) to the Secretary of State
[Telegram]

TEGUCIGALPA, July 29, 1918, 1 p. m.

Supplementing my July 24, 1 p. m.¹ Both the Honduran Government and the Nicaraguan Government profess anxiety to sign an arbitration treaty, but both appear to desire especially to place the onus of failure on the other. The Nicaraguan Legation has received instructions to cease discussing the boundary question after the 31st instant and it is most important that the Government of the United States assume a firm attitude toward both Governments.

CURTIS

File No. 715.1715/96

The Nicaraguan Chargé (Enriquez) to the Secretary of State
[Translation]

WASHINGTON, July 30, 1918.

MOST EXCELLENT SIR: Referring to the conversation I had the honor to have with the Honorable Mr. Stabler about the proposal of President Bertrand of Honduras to settle the question of the validity of His Majesty the King of Spain's award in the boundary dispute between the two Republics, and complying at the same time with the wish expressed by the Honorable Mr. Stabler that I submit a statement of the desires of the Government of Nicaragua with respect to the friendly cooperation of the United States in seeking such a settlement, I beg your excellency's permission to lay before you the following remarks.

Certain measures of the border authorities of Nicaragua, in no wise hostile to Honduras, with which we maintain and wish to culti-

¹ Not printed.

vate the most cordial relations, but in the interest of an active fiscal vigilance, have caused some friction between the two countries which gave birth to the proposal of settling all pending questions through an arbitration that would decide as to the validity of the above-mentioned award to which Nicaragua objects on grounds that have been fully set forth in various notes addressed to the Honduran Chancellery and would at the same time finally determine the boundary line of the above-named Republics.

President Chamorro promptly and willingly accepted President Bertrand's conciliatory proposal and took the liberty of naming the Most Excellent President Wilson for the office of arbitrator, and I am under special instructions from my Government so to inform your excellency and to try and ascertain whether the Most Excellent President Wilson would, if, as is very likely, Honduras concurs in the foregoing suggestion, deign to render that great service to the two nations.

My Government on the other hand has no doubt that your excellency would, for the sake of harmony between two neighboring countries, both friends of the United States, declare in favor of expediting the speedy settlement of the existing serious difficulties by the worthy and honorable means of an amicable arbitration.

Although the two countries declare themselves in full agreement on the above-stated position, I deem it appropriate for the better illustration of the case, to say to your excellency that Nicaragua has been and in the utmost good faith is now in favor of a peaceful and brotherly settlement of all her difficulties with the other Central Republics; she gave an instance of this in the Costa Rican dispute when she accepted without a show of feeling or a remark of any kind the award of the late President Cleveland which was entirely against her, great as were her interests involved in the case.

In the Honduras case, though the arbitration had to do with the ownership of and sovereignty over a valuable coast measuring not less than 10,000 square miles, equal to nearly one-fourth of the territory of Nicaragua, she would have bowed in perfect good faith to the decision of the King of Spain, thus redeeming the pledge of the State and warding off injury to the beneficent practice of arbitration, if all, or at least the most essential conditions laid down in the protocol of arbitration, compliance with which had been declared by the Government of Honduras itself in an official note to my Government, to be necessary and indispensable to make the award binding on the contracting nations had been fulfilled in organizing the arbitration and rendering the award.

Indeed, the Gámez-Bonilla arbitration treaty places upon the arbitration of Nicaragua and Honduras, after organizing into a preliminary board, the imperative obligation to choose an umpire from the members of the Diplomatic Corps accredited to Guatemala and to report their choice to the Secretaries of State of the respective Republics so as to secure the acceptance of the person so chosen and, if that person should decline, immediately choose another umpire among the same diplomatic officers and so until the list had been exhausted. In that case only could a foreign public person, like the King of Spain, be appointed, but not until the several diplomatic officers in Guatemala had been chosen, drawn by lot, or had declined,

nor could the Government of Spain or any South American Republic be designated, except after said diplomatic officers and foreign public persons had been eliminated, and in that case the designation was to be made, not by the arbitrators of Nicaragua and Honduras, but through "an agreement of the Chancelleries of the two countries," under Article 5 of the treaty.

None of these conditions was complied with in the case under consideration since the aforesaid arbitrators, overstepping the bounds of their power and disregarding the stipulations of the treaty upon which the arbitration was based, of their own motion gave to the King of Spain the office of umpire, without even attempting to appoint even one member of the Diplomatic Corps, as they were bound to do by the stipulations of the treaty, and in taking that course they actually went so far, in seeking the acceptance of His Majesty the King, as to call upon the Minister of Spain to Guatemala, totally ignoring the Minister of Relations of Nicaragua who, as your excellency will understand, is the only organ of the Government in that branch of the administration and one whose agency could not be dispensed with under the treaty but constituted an essential condition for the validity of all the matters relating to Foreign Affairs, as provided by our political constitution and in accordance with the most elemental principles of international law.

Furthermore, the treaty provides for collective arbitration consisting of arbitrators of Nicaragua and Honduras and an umpire chosen by these two, so that the award rendered by the King without taking the other arbitrators into consideration barely expresses the personal opinion of one of the members who should constitute the arbitral tribunal if the King had been designated in accordance with the obligatory provisions of the aforesaid convention.

There are other infractions of no less consequence, the enumeration of which would be tedious, not the least important being that which relates to the proceedings to which under the very protocol of arbitration the tribunal of arbitration was under strict obligation to conform and which gave occasion for *ultra vires* action to a certain extent, in that the King adopted a system of compensations which led him to fix purely artificial boundary lines in open disregard of the treaty provisions, and went so far in that direction as to render an award *ultra petita* wholly void under international law, and left the question unsettled by deciding points that were not submitted to his decision and leaving undecided those that had been referred to him by the parties.

Let all this be said without going into the merits of the case and by way of explaining to your excellency the reasonable and good grounds upon which my Government held that the Gámez-Bonilla treaty had not yet been carried into effect and that the aforesaid award of His Majesty the King has not created a legal condition binding on Nicaragua inasmuch as none of the requirements of the protocol invoked for the validity of the arbitral proceedings has been complied with, thus leaving the boundary dispute with Honduras in the same status as before the decision of the King.

I must not omit to say to your excellency that in a note of January 26, 1914, my Government, on the occasion of a first proposition of

arbitration made by the Minister of Honduras to this Government and transmitted to that of Nicaragua through the Legation of the United States at Managua, furnished your excellency's Government with the fullest explanations on the important matter which forms the subject of this note and, for a better understanding of the questions, I take the liberty of referring to that note and its accompaniments which clearly bring out the mistake under which Honduras is laboring and which appears also to be that of your excellency's Government, as to Nicaragua having on any occasion declared the King of Spain's award valid, an error which no doubt prompted the two Governments to urge the execution of the said award.

I avail [etc.]

R. ENRIQUEZ

File No. 715.1715/42

The Honduran Minister (Lopez Gutierrez) to the Secretary of State

WASHINGTON, July 31, 1918.

MOST EXCELLENT SIR: I have before me your excellency's kind note dated the 24th of this month in reply to that which I had the honor to send to you on the 10th of the same month.¹

In your note above mentioned your excellency is pleased to say that your Government is always desirous of assisting in the most appropriate form in the maintenance of friendly relations between the sister Republics of this hemisphere, and adds that animated by that desire it spontaneously and gladly offers its good offices to those of Honduras and Nicaragua with a view to arriving at the earliest possible date, at the permanent agreement, satisfactory to both, of the question pending between them.

I wish to tender to your excellency my best thanks for your generous offer and the noble motives that prompted it. I shall transmit it to my Government by the next mail, and will inform you of the result.

In the meanwhile, I deem it expedient to inform the Department of State that if such a boundary dispute now exists it is not through the action of Honduras. As your excellency knows, the boundary dispute between the two countries was submitted to the decision of His Majesty the King of Spain, who rendered his award on the 26th day of December 1906.

The award was accepted by the Government of Honduras and by that of Nicaragua which was declared in a communication to its Congress, although under reserve of an explanation requested concerning points in the aforesaid award.

This is the present status of the case, and the friendly offers of your excellency's Government contained in the note which I am now answering may prove of the highest importance for a final settlement of the matter under consideration.

I take [etc.]

J. ANTONIO LOPEZ G.

¹ Neither printed.

File No. 715.1715/45

The Minister in Nicaragua (Jefferson) to the Secretary of State

[Telegram]

MANAGUA, August 12, 1918, 4 p. m.

Nicaraguan Government has for several days hoped that an early settlement of the boundary dispute would be brought about by arbitration, but to-day President Chamorro informed me that greatly to his surprise, and probably also to the surprise of the American Legation in Honduras, due to influence and objections of Doctor Menao, matters had shaped themselves contrary to his expectations in that Honduras has assumed the attitude of adhering to the arbitral award of the King of Spain.

Chamorro informed me that he proposed to make another effort through the Department and his Minister at Washington to endeavor to get Honduras to come to any other prompt settlement of the question.

Above sent to Tegucigalpa.

JEFFERSON

File No. 715.1715/47

The Minister in Nicaragua (Jefferson) to the Secretary of State

[Telegram]

MANAGUA, August 17, 1918, 3 p. m.

Nicaraguan Minister for Foreign Affairs informed me that he received a message from Nicaraguan Minister to Honduras stating that Honduras is sending to Danli 500 soldiers with machine guns and cannon, and requested urgent instructions. Nicaraguan Government informed its Minister not to discuss further the boundary question nor to give offense, but to quietly proceed to Salvador.

JEFFERSON

File No. 715.1715/48

The Honduran Minister (Lopez Gutierrez) to the Secretary of State

[Translation]

WASHINGTON, August 17, 1918.

MOST EXCELLENT SIR: Notwithstanding the disinterested good offices tendered by this Government to arrive at a settlement of the existing difficulties between Honduras and Nicaragua over their boundary dispute, the Government of the last-named country, ignoring the award of His Majesty the King of Spain and overlooking its promise to evacuate the village of Las Trojas, of which it had taken military possession, continues to hold the village, thereby giving provocation to the Government of Honduras which will be compelled to use force as a last resort while declining responsibility for the maintenance of its rights and the upholding of the Nation's dignity.

President Bertrand sent me on the subject the telegram dated the 15th instant which I have the honor to transcribe hereinbelow, with a request that you kindly acquaint me at the earliest possible date with the decision that your excellency's Government may reach in the matter.

President Bertrand's telegram reads word for word as follows:

Minister of Honduras, Washington, D. C. Notwithstanding the conciliatory conduct of the Government of Honduras and the good offices of the American Government, the Government of Nicaragua continues its military occupation of Las Trojas with repeated and grave provocations in reiterating its complete and offensive disregard of the award. In the presence of such proceedings, this Government, declining every responsibility, is placed under the duty of guarding the rights and dignity of the nation by the use of force which will shortly create between the two Republics a situation fraught with incalculable consequences. I communicate this to you in order that you may have the antecedents of the case and inform the Department of State on the subject.

FRANCIS BERTRAND

I take [etc.]

J. ANTONIO LOPEZ G.

File No. 715.1715/45

The Secretary of State to the Minister in Nicaragua (Jefferson)

[Telegram]

WASHINGTON, August 17, 1918, 4 p. m.

Honduran Minister informed Department this morning that Nicaraguan troops had crossed the Honduran frontier.

Cable Department immediately whether this information is correct.

Your August 12, 4 p. m. Should you find the information to be correct, you may state to President Chamorro that this Government is disagreeably impressed to learn of such unexpected action if sanctioned by him. This Government is all the more disappointed because of Chamorro's statement to you that he proposed to make another effort to settle the boundary question through the good offices of this Department.

You are directed to again use your most tactful efforts to prevail upon President Chamorro to order the withdrawal of his men from the disputed region pending some satisfactory amicable settlement. You may state that the cause for which the United States and Nicaragua are battling would be seriously jeopardized should any disturbance occur in Central America which disturbance might be taken advantage of by the enemy.

LANSING

The Secretary of State to the Chargé in Honduras (Curtis)

[Telegram]

WASHINGTON, August 17, 1918, 4 p. m.

The Honduran Minister has informed the Department that Nicaraguan troops have again crossed the Honduran boundary. Cable Department truth of this information.

Department has wired Legation at Managua, should this information be correct, to use its best efforts to secure the withdrawal of Nicaraguan troops pending an amicable settlement of the boundary.

question. Should the information be correct, you may inform the Honduran Government that the Department has taken this action and intimate to the Government that the Department hopes a crisis will not be participated [sic] by the sending of Honduran troops to the disputed territory.

LANSING

File No. 715.1715/50

The Minister in Nicaragua (Jefferson) to the Secretary of State

[Telegram]

MANAGUA, August 20, 1918, 3 p. m.

Department's August 17, 4 p. m. President Chamorro returned to the city late yesterday after an absence of about a week. He stated to me that he had not sent Nicaraguan troops across the Honduran frontier nor had he even sent one soldier to the frontier, and that only twelve of the revenue guard remained in Las Trojas; that Nicaragua has always had jurisdiction over the towns of Las Trojas, Potrerillos, and Comunidad, and would adhere to her claim pending final settlement of the boundary dispute; that upon his return, the political chief of the Department of Ocotal had information that Honduras had sent troops to Esteli and towards the border, and moreover, had offered pardons to criminals who would join her forces in invading Las Trojas. President Chamorro reiterated that he very much desired the good offices of the Department and feels that Honduras is making his position very hard. He has not resorted to any other means of settling the boundary dispute than through diplomatic channels, and has endeavored to be very courteous to Honduras, thereby avoiding any hard feelings which might bring about serious difficulties over a matter that could be settled by putting it in the hands of the United States Government and both interested parties pledging themselves to accept its final decision.

I believe that Chamorro is sincere in his desire to settle this matter, and I believe that if President Bertrand will do his part, there will be no further trouble. A great deal of the trouble arises from the fact that a large proportion of the people of that community are employed in contraband trade of tobacco, etc., and take advantage of the legal status of the case and stir up as much trouble as possible. I am informed by Mr. Lindberg, formerly connected with customs service, that this section of Nicaragua needs strong vigilance against the contrabandist and is a source of annoyance.

JEFFERSON

File No. 715.1715/52

The Chargé in Honduras (Curtis) to the Secretary of State

[Telegram—Extract]

TEGUCIGALPA, August 20, 1918, 4 p. m.

I have been unable to see the President until this morning, but had interview with the Minister for Foreign Affairs yesterday morning.

It seems certain that Nicaraguan armed forces have been entering and leaving Las Trojas constantly, so I made the intimation according to your instructions. The President, Minister for Foreign Affairs, Minister of War, and Membreño feel strongly that Honduras is being again asked to withhold its troops from territory unquestionably Honduran just as in the case of the Guatemala boundary dispute. However, orders will be sent at once to the troops not to enter Las Trojas, but as these left Danli Sunday and as there is no telegraph line beyond that place, it is possible that they will have arrived there before the orders reach them, in which event they are to retire immediately. The foregoing orders are based on the supposition that Nicaragua will withdraw its forces as contemplated by your cable, and the whole arrangement is to be considered merely temporary.

All those above mentioned professed entire lack of confidence in Nicaragua and sought guarantee by the United States that it would adapt its agreement to withdraw its forces.

Regardless of the rights of either nation it seems to me that the United States should insist that both resume negotiations for an arbitration treaty and that the good offices of the United States through its representatives in each capital should be offered to assist in reaching an agreement. The Honduran Government will not agree to this with good grace, as it holds that Nicaragua is entirely at fault in this matter, but I am convinced that it will do so if we use pressure. . . .

CURTIS

File No. 715.1715/56a

The Secretary of State to the Chargé in Honduras (Curtis)¹

[Telegram]

WASHINGTON, August 21, 1918, 11 p. m.

The Government of the United States would view with the liveliest regret any armed strife or serious dispute which might occur between the Governments of Honduras and Nicaragua. Such a disagreement would appear the more out of place remembering that the Republics of Honduras and Nicaragua and the United States are all bound together as co-belligerents in the great war against the Imperial German Government.

The Department of State therefore offers its good offices to the Government of Honduras to use its influence towards a friendly settlement of the question at issue with Nicaragua in the following manner:

It is suggested that the Government of Honduras send a representative to Washington, or appoint a person now in Washington, to confer with the Department of State, and with representatives of Nicaragua regarding the present dispute. The representative should have the necessary maps and documents to make a clear exposition of the question. Such a conference would be an informal one, and would familiarize the Department with the question at issue in order that it might use its good offices to better purpose in suggesting a

¹ The same, *mutatis mutandis*, on the same date, to the Minister in Nicaragua.

friendly solution of the question. The rearbitration of the question is not suggested, but merely a friendly discussion of the whole matter.

The Department requires as a condition precedent to the use of its good offices as outlined above that the Government of Honduras should immediately withdraw all troops and police into the zone occupied by them previous to June 1, 1918. This return to the *status quo ante* must be scrupulously observed by the Government of Honduras during the period within which the Department shall continue to exert its good offices.

A cable similar in sense to this one has been sent to the Legation at Managua.

LANSING

File No. 715.1715/54

The Chargé in Honduras (Curtis) to the Secretary of State

[Telegram]

TEGUCIGALPA, August 22, 1918, 2 p. m.

Your August 21, 11 p. m. The President accepts gladly the offer of the Department and will order the withdrawal of all troops to Danli as soon as it is learned that Nicaragua has acted likewise. There are no police in Las Trojas at any time except occasional patrols consisting of an inspector and five soldiers sent in pursuit of criminals; these go for a specific purpose and leave when it has [they have?] been captured or the pursuit proved fruitless. Should I insist that [no?] patrols go there under this agreement? A copy of this sent to Nicaragua.

CURTIS

File No. 715.1715/55

The Minister in Nicaragua (Jefferson) to the Secretary of State

[Telegram]

MANAGUA, August 23, 1918, 11 a. m.

Department's August 21, 1 [11] p. m.¹ Nicaraguan Government is pleased to accept the kind offer of the Department of State for its good offices although it maintains that the happiest solution of the question would be by arbitration. Nicaragua as a party to the agreement insists that Honduran Government shall agree to forthwith withdraw from the zone occupied by Nicaragua previous to May 20, 1918, at which time Honduran forest inspectors or rural guards put a stop to timber cutting and operations of Martin Alvarado along the Awawa River. No patrols are to be sent by either Government under this agreement.

President Chamorro up to the present time has not made any preparation whatsoever to combat the military forces recently reported to have arrived at Danli and the border. His hopes have been for a peaceful and harmonious settlement of the question.

Copy of this sent to American Legation Tegucigalpa.

JEFFERSON

¹ See *ante*, p. 32n.

File No. 715.1715/55

The Secretary of State to the Chargé in Honduras (Curtis)¹

[Telegram]

WASHINGTON, August 28, 1918, 6 p. m.

Department's August 21, noon [11 p. m.]. Your August 22, 2 p. m. I have received with much satisfaction your telegram announcing the acceptance by the Honduran Government of the offer of this Government to use its good offices.

The Government of Nicaragua has also accepted offer of its good offices made by this Government and has agreed to the withdrawal of all troops and police into the zone occupied by them previous to May 20, 1918.

You are directed to urge emphatically that no Honduran patrols, forest inspectors, or rural guards proceed further than the zone occupied by them on May 20, 1918.

You may suggest that the Honduran Government designate at an early date the representative who is to confer with the Department and with the representative of Nicaragua.

Ascertain by telegraph from the Legation at Managua the date of the departure for Washington of the Nicaraguan representative.

LANSING

File No. 715.1715/62

The Chargé in Honduras (Curtis) to the Secretary of State

[Telegram]

TEGUCIGALPA, September 2, 1918, 5 p. m.

Your August 28, 6 p. m. The Honduran representative will be Bonilla, Honduran envoy extraordinary and minister plenipotentiary on special mission now in the United States. Documents, etc., will probably be sent by next mail.

CURTIS

File No. 715.1715/66

The Minister in Nicaragua (Jefferson) to the Secretary of State

[Telegram]

MANAGUA, September 11, 1918, 3 p. m.

Nicaraguan Minister at Washington has been appointed Nicaraguan representative in Nicaraguan-Honduran boundary question, and Adolfo Cardenas of Managua will be sent in the capacity of engineer and secretary.

Copy sent to American Legation Tegucigalpa.

JEFFERSON

¹The same, *mutatis mutandis*, on the same date, to the Minister in Nicaragua.

ARGENTINA

CABLE-LANDING CONCESSIONS GRANTED BY ARGENTINA TO THE
CENTRAL & SOUTH AMERICAN TELEGRAPH CO. (AN AMERICAN
COMPANY)¹

File No. 835.73/66

*The President of the Central & South American Telegraph Co.
(James A. Scrymser) to the Secretary of State*

[Memorandum—Extracts]

NEW YORK, September 23, 1916.

Through the powerful influence of the Department of State and the American Ambassador to Brazil, the Central & South American Telegraph Co. expects shortly to conclude its contract with the Government of Brazil, for the laying of two separate cables between Buenos Aires, the company's present terminal, and the cities of Santos and Rio de Janeiro in Brazil, and thus provide an American-owned cable connection from the United States to the Republic of Brazil. . . .

Taking it for granted that no serious obstacle will be met with at the Brazilian end, the establishment of the first means of a direct all-American telegraph communication between the United States and Brazil depends solely upon the successful negotiation of an agreement between this company and the Government of Argentina for the laying of two separate cables between Argentina and Brazil, one to land at Santos and the other at the city of Rio de Janeiro, in accordance with the landing rights which the Brazilian Government contemplates granting to the Central & South American Telegraph Co.

By a concession granted by the Argentine Government in 1885, when it was supposed that one cable between Argentina and Brazil would be amply sufficient, the Central & South American Telegraph Co. was authorized to "establish a cable from the coast of Brazil to the capital of the Republic." The decree in full is attached.

This concession was granted absolutely without limitation as to time, and the fact that it exists in the archives of the Department of State should be a sufficient guarantee of its validity.

On June 3, 1909, the Argentine Government granted to the Western Telegraph Co., Ltd., the British corporation heretofore alluded to, a concession for the laying of a submarine cable between the island of Ascension and the Argentine Republic.

This concession of 1909 contained no reference to the prior and still existing concession of 1885 held by the Central & South American Telegraph Co., and yet Article 17 of the 1909 concession pro-

¹ See also Brazil, *post*, p. 45.

vides a preferential right for the Western Telegraph Co. which is almost identical to that of the Brazilian concession . . . of June 30, 1893.

In connection with our concession of 1885, I attach a copy of a telegram received from our manager in the city of Buenos Aires, Mr. Hussey, dated September 21.¹ By noting this telegram you will see that the Director General of Telegraphs of Argentina intimates that our concession of 1885 "has been abandoned."

It is quite apparent that the Western Telegraph Co., realizing that the decision of the Supreme Court of Brazil will be in favor of the American company, has now entered into negotiations with the Director General of Telegraphs of Argentina to cancel our contract rights and, in fact, prohibit American cable communication to be established with Brazil, as there is every probability that Brazil will authorize it to do shortly.

Undoubtedly the Brazilian Government is anxious to have the three Americas connected telegraphically and is particularly anxious for the establishment of cable communication with the United States by means of an American-owned cable. If the Brazilian Government had thought otherwise it would not have backed our claims with reference to Brazilian rights and would have supported the continuation of the present English monopoly.

The Central & South American Telegraph Co. could not carry out the provisions of the 1885 concession granted by Argentina until the English monopoly was removed and this company was permitted to enter Brazil.

This being the situation, I have to ask that the Honorable Secretary of State will instruct the American Embassy at Buenos Aires to endeavor to secure respect for the contract of 1885, as it was through no fault of this company that the said concession did not become operative.

Furthermore, I respectfully request that, in obtaining the said confirmation, the Embassy should endeavor to secure permission to alter the word "cable" in the existing concession to the word "cables".

Respectfully submitted,

JAMES A. SCRYSMSEY

[Enclosure—Translation]

Cable concession issued by the Department of the Interior of Argentina to the Central & South American Telegraph Co.

BUENOS AIRES, June 22, 1885.

In view of the papers presented by his excellency the resident Minister of the United States, Gen. D. Thomas O. Osborn, in communicating the proposal of the "Central & South American Telegraph Co." to establish a cable from the coast of Brazil to the Capital of the Republic, which proposal has been recommended by the Government of the United States and in accordance with the reports of the Director General of Posts and Telegraphs:

- 1st. That the establishment of the cable would be advantageous for the public service;
- 2d. That the concession solicited in regard to national lands for the line, and right of expropriating private lands which might be necessary, are provided for and granted under the national telegraph law of October 7, 1875.

¹ Not printed.

It is resolved: 1st. To concede to the "Central & South American Telegraph Co." the right to establish a telegraph cable to the Capital of the Republic subject to the regulations of the law mentioned and to the regular jurisdiction of the nation.

2d. Communicate, publish and insert in the *National Register* and pass to the Department of Foreign Relations to take effect.

ROCA
BENJAMIN PAZ

The Secretary of State to the Chargé in Argentina (De Billier)

[Telegram—Extract]

WASHINGTON, September 28, 1916, 4 p. m.

After immediate careful review of records relative thereto, consult Manager Hussey of the Central & South American Telegraph Co. regarding latest contention of Argentine Director General of Telegraphs relative to annulment of company's concession of June 22, 1885, and thereupon reiterate to the Argentine Government the desire of this Government that the contract be respected and remind them of the value that it attaches to this important factor in the union of the continents.

If necessary communicate and cooperate by cable with Embassy at Rio de Janeiro. . . .

LANSING

File No. 835.73/69

The Chargé in Argentina (De Billier) to the Secretary of State

[Telegram]

BUENOS AIRES, October 6, 1916, noon.

Department's September 28, 4 p. m. No menace to the life of the concession by present administration. Will suggest by next mail what course the telegraph company should probably pursue.

DE BILLIER

File No. 835.73/70

The Chargé in Argentina (De Billier) to the Secretary of State

[Extract]

No. 288

BUENOS AIRES, October 9, 1916.

SIR: Referring to the Department's telegraphic instruction dated September 28 ultimo and to the Embassy's telegraphic despatch dated October 6 ultimo, I have the honor to report that an Executive decree dated July 19 last and published in the *Official Bulletin* July 24 ordered the departmental divisions of the administration to report within thirty days on the actual status of concessions to individuals, corporations and private companies. The object of this decree was apparently to ascertain what funds deposited as a forfeit by concessionaires had lapsed to the Government by limitation.

This decree appeared to the local agent of the Central & South American Telegraph Co., Mr. Hussey, to contain an element of danger to his company's concession of June 22, 1885. In conformity with

the Department's subsequent instruction I took up the matter with the Minister for Foreign Affairs by note and orally and further spoke to Doctor Aldao. . . . While it may be safely concluded that no action adverse to the concession will be taken now, it will be seen from the opinion of Doctor Aldao, which with translation is enclosed herewith, that the telegraph company would probably do well to take some step looking to a renewal of the concession which would contain certain stipulations as to its termination in default of active preparations for the laying of the cables contemplated.

I have [etc.]

FREDERIC DE BILLIER

[Enclosure—Translation]

Aldao, Campos & del Valle to the Chargé in Argentina (De Billier)

October 4, 1916.

DEAR SIR: In compliance with the request which you were pleased to make of us we examined the facts in the matter relating to the Central & South American Telegraph Co.

The concession granted to the aforesaid company by the decree of June 22, 1885, is perfectly legal, since it was established by means of a decree of the Executive power of the nation dictated in accordance with the prerogatives conferred by Article 4 of the law of national telegraphs of October 7, 1875.

As we are aware, this concession is in force; but we believe that the Executive power could annul it at will, on account of its not having been used during the 31 years which have elapsed since it was granted.

Therefore we point out that it would not be wise to rely upon the validity of the concession in future while no use is being made of it, but that it would be advisable to apply to the Executive power for a new decree, which could be obtained if the company is in position to announce that it will lay the contemplated cable within a reasonable period of time.

If, as you state is expected here, the existing difficulties in Brazil will be obviated within a few weeks, the opportunity will have arrived for the company to attempt to obtain from the Executive power the confirmation of the said concession.

Until these difficulties are removed, we think that it will not prove difficult to arrange to have the *status quo* of the concession maintained for a certain time, in view of the fact that the validity of the concession can not be questioned so long as the Executive power does not cancel it as a result of its not having been used during the long period of time which has elapsed since it was granted.

We consider, moreover, that it would not be difficult to arrange with the Executive power that before the concession were canceled, the company be allowed a certain time to make use of it, under penalty of cancellation if within the time so fixed the company fail to have constructed or have begun to construct the cable in question.

As you know, the present term of the Executive power ends the 12th instant, and, on this account, it is absolutely certain that some time will elapse before the new government will be able to turn its attention to this matter.

Yours [etc.]

ALDAO, CAMPOS & DEL VALLE
By R. C. A.

File No. 835.73/71

The Ambassador in Argentina (Stimson) to the Secretary of State

No. 324

BUENOS AIRES, February 9, 1917.

SIR: Referring to my previous correspondence, and particularly to my despatch No. 288, of October 9, 1916, I have the honor to report that I have taken occasion to impress upon the local manager of the Central & South American Telegraph Co. the advisability of his

company's addressing some communication to the Argentine Government as an earnest of their intention to avail themselves of the concession of 1885. Such a communication might merely touch upon the matter of facilities for a cable landing here, or any preliminary convenient to the company's intention, but would probably have a favorable effect on the Argentine Government's view of the company's position. Having stated that action on its part awaited a decision of the courts in Rio de Janeiro, now handed down, it would seem fitting that the telegraph company should move with little delay.

I have [etc.]

F. STIMSON

File No. 835.73/72

*The Vice President of the Central & South American Telegraph Co.
(John L. Merrill) to the Secretary of State*

NEW YORK, March 23, 1918.

SIR: I respectfully ask that you will refer to the Department's letter of October 3, 1916,¹ and previous correspondence and, particularly, to the paraphrase of a telegram which the Department was good enough to send to the American Embassy at Buenos Aires, on September 28, 1916, reading . . .²

For your convenience, I quote below a translation of a concession granted to the Central & South American Telegraph Co. by the Argentine Government in 1885. This concession, you will note, was granted absolutely without limitation as to time. The concession, translated, reads . . .³

Please note that while our concession from the Argentine Republic, dated June 22, 1885, is very brief, it contains a reference to the national telegraph law of October 7, 1875, which law embraces a full statement of the regulations under which the business of our company in the Republic of Argentina, over the proposed cables, will be carried on. This law, among other things, gives the Executive the power to permit the landing of ocean cables.

Acting upon the suggestion of the American Ambassador to Argentina, the company made formal application to the Argentine Government for landing site in Argentina on March 8, 1917. The following is a translation of such application:

TO THE DIRECTOR GENERAL OF TELEGRAPHS, BUENOS AIRES:

The difficulties offered in the Republic of Brazil to the laying of the cable authorized by decree of July 22, 1885, which this company has been able to overcome since that time by the use of all its efforts with persistent application, as it has had opportunity to express to you, have happily just terminated with the final decision given lately by the supreme tribunal of Brazil, which removes the obstacles raised against the realization of an enterprise that is indispensable to progress. The world situation created by the European war prevents, for the time being, the laying of the cables, the securing of materials, and the assurance of transportation thereof, but in any event it is convenient

¹ Not printed.

² Ante, p 37.

³ Ante, p. 36.

to conclude at once some preliminary details so as to be in a position to commence the work when circumstances permit after peace is made.

The most important of these details is the one referring to the point at which the cable should land in this Republic, the point which the company thinks is difficult to fix on the Rio de la Plata, although it has considered the possibility of erecting it in the vicinity of Quilmes Beach, or near Atalaya.

Desiring to commence immediately the studies required for that end and before the company makes the corresponding final election, I would be grateful to the Director General if he would be willing to indicate to me if the landing places mentioned or any of them conflict with laws or dispositions of the Argentine Government or offer difficulties in any other way.

I salute the Director General with my most distinguished consideration [etc.]

HENRY HUSSEY

Up to this date, we have received no definite reply from the Argentine Government, although we have been assured several times that the application was being carefully considered.

As you know, after succeeding in our case before the Supreme Court of Brazil, the Brazilian Government on October 27, 1917, executed a formal contract with this company for laying two submarine cables from Brazil to the Argentine Republic, viz.:

- (1) From Rio de Janeiro direct to the Argentine Republic;
- (2) From Santos (Brazil) direct to the Argentine Republic.

A copy of this contract is on file in the Department of State and another copy is hereto annexed, translated by the Department.¹

The only possible objection to favorable action on the application would be the existence of a concession granted in 1909 to the Western Telegraph Co. (British), which concession contains certain preferential rights. Our claim has been that our 1885 concession antedates the Western Telegraph Co.'s 1909 concession and, consequently, the latter cannot conflict with our rights in any way. The validity of this contention has been supported by the Department of State.

In view of the fact that no answer has been given by the Argentine Government to our application of March 8, 1917 (more than one year ago), and in view of the fact that our company now holds (since October 27, 1917) a contract from Brazil for this greatly needed cable, and, in view further of the enormous interests at stake, both on the part of the United States Government and of the citizens of the United States, of a commercial nature, we respectfully request that urgent instructions be sent at the earliest possible moment by the Honorable Secretary of State to the proper diplomatic representative in the Argentine Republic, to obtain a speedy reply to our request of March 8, 1917, in order that a landing place for our said cables on the coast of the Argentine Republic may be fixed.

I purpose going to Washington next Friday, March 29, and should be glad to call upon you in regard to this matter late Friday afternoon or Saturday morning, or, if inconvenient to see me at that time, I shall be glad to come to Washington at any other time you may determine.

With our sincere appreciation of your support of our endeavor to extend our American-owned and American-controlled cables from Argentina to Brazil, I am [etc.]

JOHN L. MERRILL

¹ Not printed.

File No. 835.73/71

The Secretary of State to the Ambassador in Argentina (Stimson)

[Telegram]

WASHINGTON, March 29, 1918, 6 p. m.

Department's September 28, 1916, and your despatch No. 324, February 9, 1917. The Central & South American Telegraph Co. made a formal application to the Argentine Government for a landing site for their cables from Brazil to the Argentine on March 8, 1917. No reply has been yet received by the company. You may request the Argentine Government to reply at its early convenience in order that a landing place for the cables on the coast of Argentina may be fixed.

LANSING

File No. 835.73/63

The Secretary of State to the Ambassador in Argentina (Stimson)

[Telegram]

WASHINGTON, March 29, 1918, 7 p. m.

John L. Merrill, vice president of the Central & South American Telegraph Co., has informed the Department that by a decree dated February 21 and published in the *Official Bulletin* of March 5 the Argentine Government authorized transitorily the River Plate Telegraph Co. to collect three francs per word on telegrams received from North America destined for Brazil, excepting the Amazon Telegraph Co. and wireless stations.

Ask the Argentine Government why this apparent discrimination is made against telegrams coming from North America, and cable Department explanation.

LANSING

File No. 835.73/73

The Ambassador in Argentina (Stimson) to the Secretary of State

[Telegram]

BUENOS AIRES, April 2, 1918, 11 a. m.

Your March 29, 7 p. m., and March 29, 6 p. m. With regard to the application made by the Central & South American Telegraph Co. on March 8, 1917, to the Argentine Government for the naming of a landing site for their cables from Brazil to Argentina, and the further application to the same effect made by the company in October last, I have, as instructed by the Department, made requests of the Foreign Office that its reply in the matter be made as soon as possible.

In regard to the instructions contained in the Department's March 29, 7 p. m., regarding the discrimination permitted by the Argentine Government against cables received from North America destined for Brazil. I have discussed the matter fully with the company's manager here. He is of the opinion, in which I entirely concur, that

the matter is one which at present calls for a protest by the company to the Ministry of the Interior, and if necessary, subsequent legal action, with the Embassy's intervention as the ultimate remedy. It will be remembered that the company in 1898, by legal action against even higher discriminatory rates in use by the Western Telegraph Co., obtained a favorable decision from the Argentine courts and a resultant closing of the Western Telegraph Co.'s operations for a period of nine months. Moreover, and as it seems to me of greater value in the argument against the Embassy's present intervention in the latter matter, as the Department has already been advised, the Embassy is at present endeavoring to the best of its ability to assist the company in obtaining the permission from the Argentine Government which it requested on February 20 last to lay a cable from Argentina to Montevideo. This concession in any case will automatically solve the problem of the transportation of the cables from North America to Uruguay and Brazil, and will probably also entail the selection by the Government of the desired landing site.

I have requested an interview of the President to lay the matter of the desired concession before him in case events take any unfavorable turning in regard to the granting of the concession. But from conversation with the Minister of Foreign Affairs, I believe that the matter is receiving favorable consideration; and I fear that if the Embassy at this time puts in too many requests regarding the company's projects, the issues will become confused and the main feature desired, that of the right to lay cables from Argentina to Montevideo, which will solve the other problems, may be rejected and some minor points at issue be conceded.

STIMSON

File No. 835.73/75

The Ambassador in Argentina (Stimson) to the Secretary of State
[Telegram]

BUENOS AIRES, April 9, 1918, 5 p. m.

My April 2, 11 a. m. I have just come from an audience with the President, granted on the subject of the petition of the Central & South American Telegraph Co. to lay a cable from Buenos Aires to Montevideo. I explained the matter fully and completely to him: its past history; the objection raised by the British or "Western" company, based on their alleged monopoly; the objections to this claim under the Argentine Constitution; the reasons of convenience for the completion of this, the last link in the chain of the Pan American cable from New York around South America; the international need of such a system, both to Argentina and Uruguay; and, finally, the particular interest the Government of the United States took in the matter.

He appeared to be much interested, and assured me he would give the matter serious and friendly consideration himself, and asked me to leave with him personally the copy of the brief application with me, prepared by Mr. Shirley, and the map showing the lines of the telegraph company.

STIMSON

File No. 835.73/77

The Ambassador in Argentina (Stimson) to the Secretary of State
[Telegram]

BUENOS AIRES, April 10, 1918, 4 p. m.

My April 2, 11 a. m., and April 10, 3 p. m.¹ In the same conversation referred to in the last telegram the Uruguayan Minister informed me that he had asked for an audience with the President of Argentina before he left for Uruguay this evening, and he has stated to me that he would urge upon him the importance of the granting of the Central & South American Telegraph Co.'s petition for permission to lay cable from Argentina to Montevideo, informing him of the interest the Uruguayan Government had in the matter.

STIMSON

File No. 835.73/78

The Ambassador in Argentina (Stimson) to the Secretary of State
[Telegram]

BUENOS AIRES, April 12, 1918, 5 p. m.

My April 10, 4 p. m. The Uruguayan Minister informs me that in accordance with my request in his interview with the President of Argentina two days ago he took up the matter of the permission desired by the Central & South American Telegraph Co. to lay cable from Argentina to Montevideo. The President spoke to him favorably about the desired concession and stated that no monopoly by the Western Telegraph Co. would be permitted.

STIMSON

File No. 835.73/81

The Chargé in Argentina (Robbins) to the Secretary of State
[Telegram]

BUENOS AIRES, August 10, 1918, 5 p. m.

Embassy's April 24, 11 a. m.¹ Doctor Martienzo, Attorney General of the Republic, to whom the petition of the Central & South American Telegraph Co. to lay a cable from Buenos Aires to Montevideo was referred, has given us his opinion that such petition should be granted and that the laying of this cable will in no way contravene the concession previously granted the Western Telegraph Co. Both national Attorneys General have now rendered a favorable opinion and I understand that the presidential decree formally granting the company's petition will shortly be issued. The Western Telegraph Co. has now no further recourse beyond that of requesting a reconsideration of the Attorney Generals' decision.

ROBBINS

¹ Not printed.

File No. 885.73/83

The Ambassador in Argentina (Stimson) to the Secretary of State

[Telegram]

BUENOS AIRES, October 28, 1918, 1 p. m.

My April 9, 5 p. m. On October 23 the President finally signed a decree which bears the date of August 1, authorizing the Central & South American Telegraph Co. to lay one or more cables between Argentina and Uruguay. The decree was signed in accordance with the recommendations of both Attorneys General of the nation, who declared the authorization to infringe upon no existing concessions, and notwithstanding the bitter opposition of the Western Telegraph Co.

STIMSON

BRAZIL

CABLE-LANDING CONCESSIONS GRANTED BY BRAZIL TO THE CENTRAL & SOUTH AMERICAN CO. AND THE WESTERN UNION TELEGRAPH CO. (AMERICAN COMPANIES) AND TO THE WESTERN TELEGRAPH CO. (A BRITISH COMPANY)¹—DISCRIMINATION IN CABLE RATES

File No. 832,73/101

The Chargé in Brazil (Benson) to the Secretary of State

[Extract]

No. 878

RIO DE JANEIRO, March 20, 1917.

SIR: In continuation of previous correspondence² on the general subject of the projected extension of American-owned submarine cables to the coast of Brazil (specifically those of the Central & South American Telegraph Co., which it is hoped may soon be laid to Rio de Janeiro and to Santos from Buenos Aires), I now have the honor to report . . . recent developments in the matter under consideration have resulted in bringing about the following situation:

Every legal impediment to the granting of the desired cable concession by the Government of Brazil to the Central & South American Telegraph Co. has now been removed as a direct result of the company's continuous and untiring efforts extending over a number of years.

The Western Telegraph Co. has been legally defeated on the merits of the case, and will leave no stone unturned in its evident determination to prevent, if possible, the landing of American cables on the coast of Brazil.

The American company will naturally continue to seek support and aid through the good offices of this Embassy whenever an opportune moment may develop itself, and I trust that this mission may be permitted to continue in its previous policy of supporting and furthering the aims of that company.

When it became evident that the Brazilian Government would be obliged (as a result of representations by the Central & South American Telegraph Co., which were supported by intelligent editorial propaganda in the local press) to force the Western Telegraph Co., in view of the international regulations, to accept messages addressed to the United States via Galveston or via Colon, the Western was successful in negotiating with the Government an agreement whereby a "special, uniform" rate of three francs per word shall be collected on all such telegrams to the United States in payment for transmission from any station in Brazil (regardless of zones) to Buenos Aires.

¹ See also Argentina, *ante*, p. 35.

² See *Foreign Relations*, 1910, p. 61.

Ordinarily, in so far as concerns the transmission of telegrams from this country to Buenos Aires, Brazil is divided into two zones, north and south. The southern zone embraces the Federal Capital, the States of Rio de Janeiro and São Paulo, and all territory to the south thereof; and the northern zone, all territory to the north. The southern zone furnishes fully 80 per cent of all the foreign traffic.

The normal rates in force over the Western's cables to Buenos Aires are fr. 1.75 per word on all service originating in the southern zone of Brazil, and fr. 2.75 when originating in the northern zone. These original normal rates (fr. 1.75 and fr. 2.75) between Brazil and Buenos Aires will, in accordance with the new agreement referred to, be applied to all telegrams to any American republic south of Mexico. On the other hand, the "special, uniform" rate of three francs per word will be applied to all messages addressed to any point in North America, i. e., the United States, Canada, and Mexico.

Thus, the mere fact that a telegram is addressed to the United States, or to Canada, or to Mexico, and not to some South or Central American country, will incur upon the sender thereof the burden of a surtax of fr. 1.25, or 25 centimes per word, depending upon whether the messages originate in the southern or the northern zone of Brazil.

It must be borne in mind that, in any event, the service performed by the Western Telegraph Co. or by the Brazilian Department of Telegraphs (or by both in conjunction, when the messages pass over the lines of the two administrations) is precisely the same, whether messages be addressed to the United States or to any other country.

This measure, recently adopted, which will go into effect on April 1, 1917, would appear to present a clear case of discrimination against American interests. If this new rate of three francs per word were to be applied to all messages originating in Brazil and addressed to points beyond Buenos Aires, the treatment accorded to each and every country of the two continents would be equal, and no specific cause for complaint could be found, except that of considering the measure as a rather erratic arrangement.

I have [etc.]

ALEXANDER BENSON

File No. 835.73/44

The Secretary of State to the Chargé in Brazil (Benson)

[Telegram]

WASHINGTON, March 22, 1917, 4 p. m.

You are instructed to bring the following to the attention of the Brazilian Government:

The American Government on account of its belief that it is the desire of Brazil to facilitate telegraphic communication between Brazil and the United States would be glad if the Brazilian Government would find a method of modifying the decision published in the *Official Gazette* of February 18, which amounts practically to a discrimination against telegrams exchanged between the United States and Brazil and therefore leaves these telegrams in an unfavorable position in contrast with telegrams exchanged between Brazil and other foreign countries.

The Government of the United States recognizes that Brazil is somewhat hampered by her arrangements with the Western Telegraph Co. but in spite of that it hopes that unfavorable discrimination against telegrams to the United States may be removed since it is a matter in which our people may be interested.

LANSING

File No. 835.73/48

The Chargé in Brazil (Benson) to the Secretary of State

No. 898

RIO DE JANEIRO, April 10, 1917.

SIR: With reference to the Department's telegraphic instruction of March 22, 4 p. m., I have the honor to report that on March 23 this Embassy sent a note to the Foreign Office in which (referring to the decision published in the *Official Gazette* of February 18) it was stated that the Government of the United States would be glad if the Brazilian Government would find a method of modifying the above decision which amounts practically to a discrimination against the telegrams exchanged between the United States and Brazil.

This Embassy has to-day received a note from the Minister for Foreign Affairs, dated April 9, 1917, saying that the Embassy's communication of March 23 has been submitted to the consideration of the Minister of Public Works, whose reply will be transmitted to this Embassy when received by the Foreign Office.

I have [etc.]

ALEXANDER BENSON

File No. 832.73/101

The Secretary of State to the Chargé in Brazil (Benson)

[Telegram]

WASHINGTON, April 14, 1917, 6 p. m.

Referring to Embassy's despatch No. 878, March 20, and Department's telegram of March 22, 4 p. m., Department desires to learn by cable what progress is being made in solution of difficulty referred to therein.

LANSING

File No. 832.73/106

The President of the Western Union Telegraph Co. (Newcomb Carlton) to the Secretary of State

NEW YORK, July 13, 1917.

DEAR MR. SECRETARY: As your Department, through Counselor Polk, was some time ago advised, it is the earnest desire of this company to secure from the Government of Brazil an arrangement whereby a direct means of communication by telegraph and cable can be established between that country and the United States. In

pursuance of this, we are about to send a representative to Brazil, and I am writing to respectfully request the good offices and assistance of the Department of State in behalf of the enterprise.

We are considering the appointment of Mr. Nelson O'Shaughnessy, and we would be happy to be advised if the Department of State will endorse our efforts through that representative.

Faithfully yours,

NEWCOMB CARLTON

The Secretary of State to the President of the Western Union Telegraph Co. (Newcomb Carlton)

WASHINGTON, July 21, 1917.

SIR: The Department has received your letter of the 13th instant in which you state that your company desires to obtain from the Government of Brazil an arrangement whereby a direct means of communication by telegraph and cable can be established between that country and the United States, in pursuance of which you are about to send a representative to Brazil, and that you are considering the appointment of Mr. Nelson O'Shaughnessy. You ask to be advised whether the Department will endorse your efforts through that representative.

In reply I have to say that the Department is always glad to see American corporations engage in business ventures in other countries in cases where American interest will be advanced.

I am [etc.]

For the Secretary of State:
ALVEY A. ADEE

File No. 832.73/109

The Acting Secretary of State to the Ambassador in Brazil (Morgan)

[Telegram]

WASHINGTON, August 3, 1917, 6 p. m.

Nelson O'Shaughnessy is about to visit South America as representative of Western Union Telegraph Co. You are directed to grant him any proper assistance consistent with the instructions of the Department.

POLK

File No. 832.73/111

The Ambassador in Brazil (Morgan) to the Secretary of State

[Telegram]

RIO DE JANEIRO, August 13, 1917, 5 p. m.

President of Brazil and Minister of Public Works have signed concession giving Central & South American Telegraph Co. right

to lay submarine cables as desired. This assures us cable communication between the United States and Brazil over an all-American line and breaks British monopoly. Decree will be published shortly.

MORGAN

File No. 832.73/115

The Ambassador in Brazil (Morgan) to the Secretary of State

[Extract]

No. 998

RIO DE JANEIRO, August 16, 1917.

Sir: In amplification of the Embassy's telegram of August 13 last, reporting that the President of Brazil and the Minister of Public Works had signed the concession which gave to the Central & South American Telegraph Co., "without monopoly of whatsoever nature and without subsidy from the (Brazilian) Government," the right to lay submarine cables—one between Rio de Janeiro and Buenos Aires, and another between Santos and Buenos Aires, I have the honor to enclose herewith a translation of the presidential decree relating thereto which was signed on the 11th¹ and announced on the 13th instant, and which will soon be published in the *Official Gazette*. The full text of the concession will be forwarded to the Department when it is made public.

The establishment of all-American cable communication between the United States and Brazil, even though messages must pass through Argentine and Chilean territory, will be an event of considerable international importance, both because it will break the British monopoly which has been exercised for many years by the Western Telegraph Co., and because it is the beginning of that free telegraphic interchange between Brazil and the United States which it is hoped will be extended and developed in the future.

The Department's telegram of August 3, announcing that Mr. Nelson O'Shaughnessy was about to visit South America as the representative of the Western Union Telegraph Co., indicates that the latter company is interested in this phase of the matter and contemplates laying a submarine cable between Brazil and the United States under the Atlantic Ocean. Since the Central & South American Telegraph Co. has secured its concession, the Embassy is in a position to give the same assistance to the Western Union Co. that it has given to the Central & South American. The moment for Mr. O'Shaughnessy's visit appears opportune and I shall be glad if the Department will communicate that fact to Mr. Newcomb Carlton, the president of the Western Union Telegraph Co. . . .

I enclose a memorandum containing a résumé of the negotiations between the United States and the Brazilian Governments in behalf of the Central & South American Telegraph Co., as well as an editorial² from the *Correio da Manhã* of this city, of August 14, 1917, advocating a direct Atlantic submarine cable between the United States and Brazil, via Porto Rico.

I have [etc.]

EDWIN V. MORGAN

¹ Post, p. 52.

² Not printed.

[Enclosure 1—Memorandum]

NEGOTIATIONS BETWEEN THE UNITED STATES AND THE BRAZILIAN GOVERNMENTS

First instruction from Department—Mr. Seward to J. Watson Webb, No. 228, March 30, 1868—Mr. Scrymser's proposition refused by Imperial Government of Brazil.

British interests which have since been merged into the Western Telegraph Co., Ltd., obtained, in March 1870, a cable monopoly between all the Brazilian provinces (which monopoly will not expire until 1933), thus making it impracticable to extend American cables to Brazil via the Atlantic, which touched points on the Brazilian coast.

Several similar attempts made by Mr. Scrymser were unsuccessful up to June 1893, when the Brazilian Government granted the Western Telegraph Co. a 20-year monopoly of submarine communication between Brazil and the River Plate countries, in order to prevent the extension of the Central & South American Co.'s lines to Rio de Janeiro from Buenos Aires, a point which the cables had reached by slow extension down the west coast of South America from Panama and across the Andes by land line. This measure effectively blocked further progress for 20 years.

In July 1907, it was hoped that it might be found possible to bring an American cable from Buenos Aires to Brazil (see this Embassy's despatch No. 39 of July 11, 1907¹). It was later determined that that hope was unfounded and that nothing could be done until June 30, 1913.

The Department's instruction No. 207 of April 6, 1910,¹ to Ambassador Dudley started active negotiations which have been constantly continued since. The Ambassador's note to the Foreign Office, based on this instruction, bore the date of May 10 of that year. The Government of Brazil decided that it could not grant the concession until the Federal Supreme Court decided whether the Western Telegraph Co. was right in its contention that a preferential clause in its 1893 concession gave it a prior right to decide whether or not it should accept whatever arrangements the Government and the Central & South American Telegraph Co. might propose to enter into. The Supreme Federal Court took two years to consider this point but on January 29, 1917, the Embassy cabled the Department that the decision was in favor of the American company. The Executive decree of August 11, 1917, terminates a matter which has been the subject of negotiations for 49 years.

File No. 832.73/118

The Ambassador in Brazil (Morgan) to the Secretary of State

[Telegram]

RIO DE JANEIRO, October 25, 1917, 4 p. m.

Executive decree has been signed giving Western Telegraph Co. permission without monopoly to lay cables between Rio de Janeiro and Ascension Island and between Para and Barbados.

MORGAN

File No. 832.73/120

The Vice President of the Central & South American Telegraph Co. (John L. Merrill) to the Secretary of State

NEW YORK, November 7, 1917.

SIR: I thank you for your letter of October 31, 1917,¹ with the information that you have received from the American Ambassador at Rio de Janeiro a telegram dated October 25, 1917, stating that

¹ Not printed.

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permission, without monopoly, to lay cables between Para and the Barbados and between Ascension Island and Rio de Janeiro has been given to the Western Telegraph Co. (British) by a decree signed by the President of Brazil.

In response, permit me to say that we consider that these further concessions by the Republic of Brazil to British-owned and British-controlled cable interests are of extreme importance at this time and are conclusive evidence of the earnest endeavors being made by Great Britain for British commercial supremacy in South America after the war.

Through conversations which I have been privileged to have with you, Mr. Secretary, I am convinced that you fully realize the entire situation and, likewise, the important part our American-owned and American-controlled cables to Brazil will play in the future, not only to our own Government but to both the American and Brazilian commercial interests. The strategic value of cables is realized at this time as never before but we rejoice to know that you appreciate their commercial importance also and the urgent necessity to do everything possible now and hereafter to safeguard American commercial supremacy in Central and South America.

As you know, this company is doing everything possible to enhance that supremacy. We have given to all the Americas a cable service second to none throughout the world and, as I told you recently, just as soon as conditions will permit us to purchase the necessary cable we shall make the extensions and betterments we have so long had in mind, and which have been made possible by the good offices you have so kindly extended.

We are awaiting advice from our agent in Rio de Janeiro in regard to the details of the Western Telegraph Co.'s plans to lay cables between Para and the Barbados. It is extremely doubtful whether such an extension would be profitable unless these British cables could in some way be connected with the United States, either by a further extension (from the Barbados) or by some sort of a traffic agreement with a cable company operating lines from the United States. I fear the latter arrangement would be a decidedly objectionable proposition to you and to the American merchant. American cablegrams handed over to a British-owned and a British-controlled cable would not be conducive to the promotion of American commercial supremacy in Brazil.

You are well aware of the many obstacles which the Western Telegraph Co. (British) has continually put in the way of the American cabling public. Through an intentional avoidance of cooperation with us, this British company has obliged the American and Brazilian merchant who desires to cable to and from Brazil via our American-owned lines to pay an unjust and discriminatory rate (the equivalent of 58 cents per word from Buenos Aires to Rio de Janeiro as against the public rate of 34 cents per word). The object of this discrimination is, of course, to compel the routing of such traffic via England.

You are equally well aware of the trouble we have had in American telegrams, destined for Montevideo in Uruguay.

We have made inquiry, also, in regard to the details of the Western Telegraph Co.'s proposed connection between Rio de Janeiro and the island of Ascension.

WESTERN UNION
TELEGRAPH COMPANY

In conclusion, I am pleased to be able to inform you that this company has received a telegram from its agent in Rio de Janeiro, dated Rio de Janeiro, November 5, 1917, saying: "Contract finally signed but dated October 27. Mailing you, second, copy concession and translation."

I do not know just what our agent means when he says "but dated October 27." I assume that he means the contract was signed on November 5, although dated October 27.

This would seem to close the matter of our proposed extensions from Buenos Aires to the cities of Rio de Janeiro and Santos and, again, I beg to thank you in the name of the Central & South American Telegraph Co. for the good offices which you have so zealously and courteously extended in our behalf and, through you, the American Ambassador to Brazil.

I am [etc.]

JOHN L. MERRILL

File No. 832.73/125

The Ambassador in Brazil (Morgan) to the Secretary of State

No. 1047

RIO DE JANEIRO, November 8, 1917.

SIR: Referring to the Embassy despatch No. 998 of August 16 last, relative to the act of the Brazilian Government in granting a concession to the Central & South American Telegraph Co. to land submarine cables at Rio de Janeiro and Santos coming from the Argentine Republic, I have the honor to enclose a single copy of an English translation of the Executive decree No. 12,599 of August 11 which conceded the concession. Further copies will be transmitted as soon as they are furnished the Embassy by the representative of the company.

The contract between the Minister of Public Works and the local representative of the company was signed on October 27 and the contract published in the *Official Gazette* of November 1, 1917.

I have [etc.]

EDWIN V. MORGAN

[Enclosure—Translation]

Executive decree No. 12,599 of August 11, 1917

Grants unto the Central & South American Telegraph Co., for itself or the enterprise it may organize, authority to lay out, anchor in the coast of Brazil, maintain and operate a submarine telegraph cable connecting any point of the territory of the Argentine Republic with the city of Rio de Janeiro, as well as a submarine telegraph cable connecting any point of the territory of that Republic with the city of Santos, with no privilege or monopoly whatsoever or subvention from the Government.

The President of the Republic of the United States of Brazil acceding to the request made by the Central & South American Cable Co.; and

WHEREAS, by virtue of contract of the 30th June 1893 approved by an addition to the budget law for the year 1894, the Government agreed with the Western & Brazilian Telegraph Co., Ltd. not to grant, during the period of 20 years, as from the date of execution of the agreement, authority to any company, enterprise or private party whatsoever for the laying out of a cable or cables or telegraph line or lines between any point of the territory of the United States of Brazil and any point of the territory of the Uruguayan and Argentine Republics;

WHEREAS the monopoly thus granted unto the Western & Brazilian Telegraph Co., Ltd., and assigned by the latter to the Western Telegraph Co., Ltd., by decree No. 3,307 of the 6th June 1899, expired on the 30th June 1913;

WHEREAS, in conformity with the terms of Clause II of the said contract, on expiry of the period of 20 years, its clauses should continue to hold good until renewal thereof or until the Government should contract for the establishment of another cable in which case preference should be given to the Western Telegraph Co., Ltd., on equal terms;

WHEREAS, before expiration of the period of the monopoly the Central & South American Telegraph Co. petitioned permission to lay out and operate one or more submarine telegraph cables connecting the Argentine Republic with the cities of Rio de Janeiro and Santos, but soliciting this concession under a régime of free competition, i. e., without monopoly or Government subvention;

WHEREAS, on expiry of the privilege and upon presentation of the draft of the clauses of the contract submitted by the Central & South American Telegraph Co. to the Western Telegraph Co., Ltd., for consideration in order that it might use its preferential right under Clause II of its contract, the latter declared that it did not accept Clauses I, VI, and XXIII, thus rejecting the principal clauses of the proposed contract, that is to say: the one excluding the monopoly, that in which it was endeavored to guarantee the interests of the National Treasury and secure the collection of the import duties;

WHEREAS on cessation of its contract the Government could not continue to respect the privilege, when it had the faculty of entering into a new contract, with full liberty to adopt the régime of free competition;

WHEREAS the fact of the proposal of the Central & South American Telegraph Co. being acceptable gave rise to an injunction brought by the Western Telegraph Co., Ltd., against the Union to prevent the execution of a contract for the laying out of submarine cables on the terms proposed;

WHEREAS said action was accepted in the first instance but the Supreme Federal Court rejected the judgment rendered by the court of first instance and declared the period of the contract of the 30th June 1893 to have expired, and recognized the Government's entire liberty to effect the proposed contract with the Central & South American Telegraph Co.

WHEREAS the advantages which will result from the linking up of the United States of North America and Brazil by means of a new telegraph cable permitting the free exchange of messages between the two countries without the interference of the existing lines belonging to companies of other nationalities, *doth hereby decree:*

SOLE ARTICLE. Authority is hereby granted unto the Central & South American Telegraph Co. itself or through such enterprise as it may organize to lay out, anchor on the coast of Brazil, maintain and operate a submarine telegraph cable connecting any point of the territory of the Argentine Republic with the city of Rio de Janeiro, as well as a submarine telegraph cable connecting any point of the territory of that Republic with the city of Santos, without privilege or monopoly whatever or subvention from the Government under the clauses issued together with the present act and signed by the Minister of State for the Affairs of Roads and Public Works.

RIO DE JANEIRO, August 11th, 1917; 96th [year] of Independence and 29th of the Republic.

WENCESLAU BRAZ P. GOMES
AUGUST TAVARES DE LYRA

CLAUSES REFERRED TO IN DECREE No. 12,599 OF THIS DATE

1

Authority is hereby granted unto the Central & South American Telegraph Co. itself or through a company it may organize to anchor in the coast of Brazil, to maintain and operate a submarine telegraph cable connecting any point of the territory of the Argentine Republic with the city of Rio de Janeiro, as well as a submarine telegraph cable connecting any point of the territory of the Argentine Republic with the city of Santos, this permission constituting no privilege or monopoly whatsoever in favor of the contracting company, the Government of the United States of Brazil remaining with entire liberty of action to grant, at its discretion, the same or identical permission to any enterprise which may perchance solicit same.

II

The contracting company may connect both cables referred to in Clause I to its general system outside this country.

III

The landing of the cable in Rio de Janeiro shall be effected outside of the harbor bar and the cable in Santos at an adequate and suitable place so that the service of the port may not be affected.

SOLE PARAGRAPH. The landing points determined and chosen in accordance with the Government, shall be joined to the company's stations by means of cables laid inside the bay, by permission of the proper authorities or by means of underground lines, the company having the faculty to use both systems, as deemed necessary or convenient.

IV

The laying out and landing of the cables connecting the cities of Rio de Janeiro and Santos with the Argentine Republic shall be made within two years as from the execution of the contract, cases of *force majeure* duly proven being excepted; the plans of the landing points and of the course of the lines joining said points to the company's stations in Rio de Janeiro and Santos to be submitted to the Government for approval, not more than 60 days before the laying out of said connecting lines.

SOLE PARAGRAPH. The period stipulated in this clause may be extended one or more times at the Government's discretion.

V

Whenever there may be sufficient room in the buildings of the National Telegraph in the cities of Rio de Janeiro and Santos, the company may install its stations therein, paying such rent as may be agreed upon, or the company may install its stations in private buildings, its property or not, these stations, in any case, to be connected to the Government stations by means of pneumatic tubing (or any other more perfected method) for the quickest possible exchange of correspondence.

VI

The following provisions shall govern the telegraphic traffic, namely:

(a) the concessionary may receive and collect charge upon such local telegrams as may be presented for dispatch, as also deliver all local telegrams received so long as similar services carried out by the other companies operating in this country are not taken over exclusively by the National Telegraph.

(b) Nevertheless, all telegrams sent to other stations or the Union Telegraph system shall be routed through the stations of the Telegraph Department at Rio de Janeiro and Santos, unless other routing be indicated.

VII

The company is bound to establish mutual interchange or traffic with the Government lines in regard to messages received from and addressed to the Union stations, excepting messages relating to the cities of Rio de Janeiro and Santos, provided the route indicated by the sender be always respected.

1. The rates to be established in the contract for mutual traffic between the Government and the company shall be equal to those existing in contracts in force with similar companies now operating in Rio de Janeiro and Santos.

2. In case of interruption of the overland lines named "Jaguarao" and "Uruguayana" to the Plate Republics, the company cables shall constitute "loaned routes" on the conditions set forth in Clause VIII.

VIII

In case of interruption of the Brazilian, Argentine and Uruguayan lines, the international service addressed to the Argentine Republic, Uruguay, Paraguay, Bolivia and Chili, from the northern zone of Brazil (starting from the stations situated in the State of Espirito Santo) as well as the international service, for same destination, from the southern zone (including the stations in the States of Rio de Janeiro, Minas Geraes, Goyaz and Matto Grosso) excepting that of the stations in the cities of Rio de Janeiro and Santos, shall be transmitted by the

company's cables in their quality of "loaned routes", the amount charged by Brazil for the traffic on the overland lines to be divided in equal shares between the Government and the company.

SOLE PARAGRAPH. All telegrams transmitted by "loaned route" shall not pay the contribution referred to in Clause XI hereof.

IX

The company undertakes to maintain its cables in good working condition for the traffic requirements, it being bound to notify the Government within 48 hours of any fact which may cause or be likely to cause interruption to the service.

X

The schedule of rates shall be organized by the company and submitted to the Government for approval, said rates—which shall be collected in paper currency—not to exceed those charged by similar companies now operating in this country.

SOLE PARAGRAPH. The rates approved, once reduced can not be again raised without the Government's authorization.

XI

The company agrees to pay the Government the sum of 10 centimes of a franc for each word of international telegrams transiting over the cables referred to in Clause I.

SOLE PARAGRAPH. This contribution shall be reduced to five centimes of a franc per word in respect of Brazilian Government service telegrams, press and "deferred" messages.

XII

The terminal and transit rates to be placed to the debit of the company for mutual international service shall be those in force for the mutual traffic with the remaining cable companies operating in this country.

XIII

The company may not amalgamate, enter into any agreement or convention with other similar enterprises operating in Brazil without previous consent of the Government.

SOLE PARAGRAPH. The telegrams which, by virtue of the route indication may have to be exchanged with other companies operating in this country, shall be transferred by the stations of the General Telegraph Department in Rio de Janeiro and Santos, through which shall be made the respective adjustment of accounts as regards said service, the concessionary to pay said department, in this case, one franc per telegram by way of indemnity for dispatch expenses.

XIV

The adjustment of accounts with the General Telegraph Department shall be made quarterly, the amount due to be settled within the quarter next following that to which said adjustment refers.

XV

The company agrees to accept the telegraphic convention of St. Petersburg, in accordance with the international regulations issued in conformity with the same, and enjoying all benefits deriving from the said convention.

XVI

The Government shall lease to the company such available marine lands as may be necessary at the points of the seacoast for the anchorage of the telegraph cables, the company having the right to expropriate, in accordance with the law, such lands, timber and further materials belonging to private parties, as may be indispensable for the establishment of the underground cables intended for the connection of the landing points with the company's stations.

XVII

The Government shall supervise the whole services of the company in Brazil, in the manner which it may deem most convenient.

XVIII

Preference shall be given in transmission to the telegrams of the Government of Brazil and they shall enjoy a reduction of 50 per cent over the rates charged by the company.

XIX

Free transmission shall be afforded to:

1. All telegrams (not exceeding 20 words each) sent by the Government of Brazil or its agents in South and North America communicating the outbreak of any epidemic in the country whence they are transmitted or in the neighboring countries, or advising facts of notorious public calamity.

2. Two telegrams per day (one in each direction) between the Rio de Janeiro Observatory and one observatory in North America, the Government to pay the tax charged for official telegrams for such number of words as may exceed 20 in each message.

XX

For expenses of Government supervision the company shall contribute the sum of 12 contos of reis, in paper currency, annually, payable in half yearly instalments in advance, which shall be deposited with the National Treasury.

XXI

The company undertakes to maintain in Rio de Janeiro a representative with full powers to treat and definitely decide upon all questions which may arise in this country between it and its staff; said representative to have powers to accept service of initial summons and all others for which special powers are required by law.

XXII

For suspension of the traffic in the cases provided for in Article 8 of the telegraphic convention of St. Petersburg, no indemnity shall be paid to the company, whatever may be the duration of such suspension.

XXIII

The company shall enjoy all favors granted to similar companies and enterprises operating in this country, including those relating to material to be imported for the installation of its services and to cable ships which shall enjoy the privileges of national ships.

After installation of its stations, however, the company shall be subject to payment of customhouse duties on such material as it may import for the maintenance and operation of the services entrusted to it.

XXIV

For non-fulfilment of any of the present clauses the Government may impose upon the company fines of from 200 milreis to 2 contos of reis (paper currency) and double the amount in case of repetition. The amount of any fine imposed by the Government shall be deposited with the National Treasury within 30 days as from the date of its imposition as published in the *Official Gazette*.

XXV

The laws of Brazil shall be the only ones applicable to the settlement of any dispute relating to the present contract should such dispute fail to be settled by arbitration.

SOLE PARAGRAPH. For the arbitration, each of the parties shall appoint one arbitrator, and should they fail to agree the third arbitrator shall be chosen by lot between two persons presented each by one of the parties. From the decision of the third arbitrator there shall be no appeal.

XXVI

As a security for the execution of the provisions of Clause IV the company shall deposit with the National Treasury, before the execution of the respective contract, the sum of 40 contos of reis in paper currency, without right of interest, or in bonds of the public Federal debt.

SOLE PARAGRAPH. One half of the said sum shall be returned to the company six months after the definite inauguration of the traffic of the Rio de Janeiro-Argentine line, and the other half six months after definite inauguration of the traffic of the Santos-Argentine line. Should the period stipulated in Clause IV be exceeded and fail to be extended by the Government, the bond of 40 contos of reis shall become the property of the Government, to wit: 20 contos of reis for the Rio de Janeiro line, and 20 contos of reis for the Santos line.

XXVII

The permission referred to in Clause I may be declared null and void irrespective of judicial summons, the company having no right to claim any indemnity whatsoever:

1. Should, on expiry of the period fixed in Clause IV, the cables which the company has contracted to lay out, fail to work regularly, cases of *force majeure* excepted at the Government's discretion.
2. Should the telegraphic communications by means of the cables referred to in Clause I be interrupted during more than six consecutive months, cases of *force majeure* excepted at the Government's discretion.
3. Should the company enter into any understanding or agreement with any similar enterprise or company operating in Brazil, without previous authorization of the Government.
4. Should the company fail to deposit with the Treasury in due time, the quota due for supervision under Clause XX.

XXVIII

The authorization referred to in Clause I shall become null and void should the company refuse to sign the respective contract within 30 days as from the publication of the decree approving the present clauses.

RIO DE JANEIRO, 11th August 1917.

AUGUSTO TAVARES DE LYRA

File No. 832.73/127

The Ambassador in Brazil (Morgan) to the Secretary of State

No. 1066

RIO DE JANEIRO, November 26, 1917.

SIR: Referring to the subject of my telegram of October 25, 4 p. m., I have the honor to enclose a translation of decree No. 12,688, of the 24th of October, which was published in the *Official Gazette* of the Brazilian Government on the 24th of November last, by which the Western Telegraph Co., Ltd., a British corporation, which has operated submarine cables between Europe and Brazil for many years, was given permission to land an additional cable on the Brazilian coast which will connect the city of Rio de Janeiro with Ascension Island. The same decree gave that company also the right to lay a submarine cable between the city of Belem, Para, and the island of Barbados.

These concessions are without monopoly and that relating to the cable between Belem and Barbados must not infringe the rights granted the French Cable Co. by decree No. 216 of the 22d of February 1890.

The Western Telegraph Co., Ltd., already has a submarine cable between Buenos Aires and Ascension Island. The new cable which it proposes to lay between Rio de Janeiro and that island will have the effect of relieving the traffic from Buenos Aires to Europe and of facilitating the transmission of messages between Brazil and Europe which at present pass over the cables of the Western Company which enter the sea at Pernambuco.

The Western Telegraph Co., Ltd., intends to continue the cable from Para to Barbados, to Bermuda and Nova Scotia. It may be prevented from doing so, however, if the French Cable Co. substantiates its protest, a translation of which forms the second enclosure to this despatch,¹ in which objection is taken to the Para-Barbados line on the ground that it infringes the privileges secured under the third clause of decree No. 216 of 1890 for submarine communication between Brazil and North America. Should the Western Union Telegraph Co. decide to apply for a concession to lay cables between Brazil and one of the Antilles the Western Telegraph Co. and itself would have a similar interest in defeating this protest.

I have [etc.]

EDWIN V. MORGAN

[Enclosure—Translation]

Decree granting a concession to the Western Telegraph Co., Ltd., for a submarine cable from Rio de Janeiro to the island of Ascension, and another cable from Para to the island of Barbados

Decree No. 12,688 of the 24th of October, 1917: Granting to the Western Telegraph Co., Ltd., permission to lay, land on the coast of Brazil, maintain and operate a submarine telegraph cable, connecting the city of Rio de Janeiro to Ascension Island, in Africa, and also a telegraph cable connecting the city of Belem in Para to the island of Barbados.

The President of the Republic of the United States of Brazil, in attention to the request made by the Western Telegraph Co., Ltd., decrees:

Sole article: Permission is hereby granted to the Western Telegraph Co., Ltd., to lay, land on the coast of Brazil, maintain and operate a telegraph cable connecting the city of Rio de Janeiro to Ascension Island, in Africa, and also—with due reserve of such rights as may be vested in other companies under previous concessions—a telegraph cable connecting the city of Belem in Para to the island of Barbados, without any kind of privilege or monopoly or Government subvention, and subject to the clauses hereunto attached under the signature of the Minister of State for the Affairs of Roads and Public Works.

RIO DE JANEIRO, October 24, 1917, 96th of the Independence and 29th of the Republic.

WENCESLAU BRAZ P. GOMES
AUGUSTO TAVARES DE LYRA

CLAUSES REFERRED TO IN DECREE No. 12,688 OF THIS DATE

I

Permission is hereby granted to the Western Telegraph Co., Ltd., to lay, land on the coast of Brazil, maintain and operate a telegraph cable connecting the city of Rio de Janeiro to Ascension Island, in Africa, and also a telegraph cable connecting the city of Belem in Para to the island of Barbados, where they shall link themselves to the international telegraph systems landing on those islands; provided always the permission hereby granted shall not constitute a privilege or a monopoly of any sort in favor of the contracting company, and that the Government of the United States of Brazil shall retain complete freedom of action to grant, as it may deem fit, a similar permission to any enterprise entering an application therefor.

II

The landing point of the Ascension line shall be at Copacabana Beach in the city of Rio de Janeiro, whence it shall be extended to the company's station in the business part of the city by means of submarine cables laid out in the Bay of Guanabara or by means of underground conductors and the company shall have the power, when found convenient or necessary, to adopt the two systems or their combination.

¹ Not printed.

III

The Barbados cable shall be landed in the city of Belem in Para or in the neighborhood thereof, with due reserve in respect of such rights as may be vested in other companies under previous concessions, and the contracting party shall, as in the case of the Ascension line, have the power to connect the landing point to their station by means of underground or underwater conductors or a combination of the two.

IV

The lines referred to in the preceding clauses must be in regular operation within the delay of five years as from the date of signing the contract, cases of *force majeure* always excepted, provided they are satisfactorily explained; and the plans of the landing points and the routes of the lines proposed to link up such points with the stations of the company at Rio de Janeiro and Para (Belem) shall be submitted to the Government for approval not less than 60 days previous to the date of laying such linking lines.

Sole paragraph: The delay stipulated in the present clause may be extended one or more times at the discretion of the Government.

V

The company shall have the power to install their stations in private buildings, owned by the company or by others, but such stations shall at all events be connected to the Government stations by means of pneumatic tube system (or any other more approved system) in order to permit the greatest possible expediency in the exchange of correspondence.

VI

The tariffs shall be organized by the company and submitted to the Government for approval, and the rates (which shall be made payable in paper currency) shall not be higher than the rates charged by similar companies operating in the country at the present time.

Sole paragraph: The approved rates if eventually reduced shall not be increased again without the authorization of the Government.

VII

Terminal and transit rates to be carried to the debit of the company in respect of international combined traffic service shall be the same as those in force for combined service with the remaining cable companies operating in the country.

VIII

The company undertakes to pay to the Government a contribution of ten centimes of a franc per word of international messages carried by the cables referred to in clause 1.

Sole paragraph: This contribution shall be reduced to five centimes of a franc per word in respect of service messages of the Brazilian Government, press messages and deferred messages.

IX

The company is held under the obligation to establish combined service with the Government lines in respect of the service received from or addressed to the stations of the Union excepting such service as may be relative to the cities of Rio de Janeiro and Belem in Para and the route indicated by the expeditor shall in every instance be observed.

Sole paragraph: The rates to be established in the combined service agreement between the Government and the company shall be equal to those existing in contracts in force made with the companies of like nature operating in the country at the present time.

X

The company shall have the power to receive from the public such telegrams as shall be tendered for transmission and to collect the rates thereon, and also to deliver at their respective addresses such messages as shall be received during the period within which the said company hold the right so to do under their concessions prior to the date of the decree granting the present one.

XI

The company undertakes to maintain their cables in a condition capable of assuring proper service to the traffic and must notify the Government within a period of not more than 48 hours of all and any occurrence occasioning or which may eventually occasion an interruption of the service.

XII

The company shall not have the power to amalgamate or to enter into any combination or convention with any other company of the same nature operating in Brazil unless they shall have previously obtained the consent of the Government.

Sole paragraph: Such telegrams as by virtue of indication of route shall have to be exchanged with other companies operating in the country shall be exchanged through the stations of the Department General of Telegraphs in Rio de Janeiro and in Belem in Para and the adjustment of accounts relative to such service shall be conducted through those stations and in this case the concessionaire shall pay them one franc per telegram as an indemnity for the expense in office work.

XIII

Accounts shall be adjusted with the Department General of Telegraphs quarterly and the amount owing shall be settled within the quarter next following that to which the adjustment refers.

XIV

The company is held under the obligation to adhere to the telegraphic convention of St. Petersburg in accordance with the international regulations issued in conformity with the same and shall enjoy the benefits resulting from the convention.

XV

The Government shall supervise as it may deem convenient all the service of the company in Brazil.

XVI

The telegrams of the Government of Brazil shall be transmitted preferentially and shall benefit of a reduction of 50 per cent of the company's own rates.

XVII

The following shall be transmitted free of charge:

(1) Telegrams (of not more than 20 words each) sent by the Government of Brazil or by the agents thereof from South or North America notifying the appearance of some epidemic disease in the country whence they are sent or in the neighboring countries, or such other facts as may constitute a notorious public calamity;

(2) Two telegrams daily (one in each direction) between the observatory at Rio de Janeiro and one observatory in North America, and the Government shall pay for the words in excess of the number of twenty in each telegram at the rates for official telegrams.

XVIII

The company shall contribute towards the expenses with the supervision a sum of twelve contos of reis (rs. 12,000\$000) in paper currency, per annum, payable by half-yearly instalments in advance into the National Treasury.

XIX

The company undertake to maintain in Rio de Janeiro a representative vested with full powers to treat and decide in a definite manner all questions that may arise in the country in respect of the company or their staff, and the said representative shall be empowered to receive initial summons and such other summons in respect of which the law requires special powers.

XX

In case of temporary cessation of the service in the cases provided for in Article 8 of the telegraph convention of St. Petersburg, no indemnity whatever shall be paid to the company, however long it may last.

XXI

The present concession is considered to be independent from the other concessions exploited by the company.

XXII

The company shall enjoy the favors granted to other companies and enterprises of like nature operating in the country, excepting such as may relate to material to be imported for the installation of their service, on which a tax of 5 per cent shall be payable, and such favors as relate to the cable ships, which shall enjoy the privileges of national ships.

However, upon their stations being installed, the company shall be liable for payment of customhouse duties on such material as they shall import for the maintenance and operation of the service under their charge.

XXIII

In the event of non-compliance with any one or more of the present clauses, the Government shall have the power to impose upon the company fines ranging between the sums of two hundred milreis and two contos of reis (paper currency), and double the amount in case of recurrence of the offense.

The amount of the fine imposed by the Government shall be paid into the National Treasury not later than thirty days after the date on which it shall have been imposed as published in the *Diario Official*.

XXIV

The laws of Brazil shall alone be applicable for the purpose of deciding all and any question relative to the present contract, whenever the same shall not be settled by arbitration.

Sole paragraph: In effecting the arbitration, each one of the parties shall nominate one arbitrator and if the latter shall not agree, the matter shall be referred to an umpire whose name shall be drawn by lots among two names submitted by the two parties respectively.

No appeal shall be taken from the decision of the umpire.

XXV

As a security of the fulfilment of the provisions of clause 4, the company shall deposit with the National Treasury prior to the signature of the respective contract the sum of forty contos of reis (rs. 40:000\$000) in paper currency without any right to interest, or in Federal Government bonds.

Sole paragraph: Out of this sum of forty contos of reis one half shall be returned to the company six months after the definite inauguration of the traffic of the line between Rio de Janeiro and Ascension, and the remaining half six months after the definite inauguration of the traffic of the line between Belem in Para and Barbados.

Should the delay stipulated in clause 4 be exceeded and fail to be extended by the Government, then the deposit of forty contos of reis shall be forfeited in favor of the Government in respect of twenty contos of reis for the line between Rio de Janeiro [and Ascension] and twenty contos of reis for the line from Belem in Para.

XXVI

The permission referred to in clause 1 may be declared null and void independently of any action or judicial notification and the fact shall not thereby be entitled to any sort of indemnity;

(1) If, on the expiration of the delay fixed in clause 4, the cables which the company undertake to lay shall not have commenced to operate regularly, cases of *force majeure* so considered at the discretion of the Government always excepted;

(2) If telegraphic communications over the cables referred to in clause 1 shall be interrupted during more than six months consecutively, cases of *force majeure* so considered at the discretion of the Government always excepted;

(3) If the company shall enter into any combination or convention with an enterprise or company of like nature operating in Brazil without the previous consent of the Government;

(4) If the company shall fail to pay into the National Treasury in due time the instalments due for supervision in accordance with clause 18.

XXVII

The permission referred to in clause 1 shall become null and void if the company shall refuse to sign the respective contract within thirty days as from the date of publication of the decree approving the present clauses.

A. TAVARES DE LYRA

RIO DE JANEIRO, October 24, 1917.

File No. 832.73/129

The Ambassador in Brazil (Morgan) to the Secretary of State
No. 1088

RIO DE JANEIRO, December 12, 1917.

SIR: I have the honor to report that the Western Union Telegraph Co., through a special representative, has applied to the Brazilian Minister of Public Works for permission to lay submarine cables from Rio de Janeiro or from Nictheroy, the capital of the State of Rio de Janeiro, across the bay, to "one of the Antilles of Central America," touching at Itaparica or some other point in the State of Bahia; at Aracajú in the State of Sergipe; at Olinda in the State of Pernambuco; at Parahyba in the State of that name; at Natal in the State of Rio Grande do Norte; and at Belem in the State of Para. The same company has also applied for a concession to lay a cable from Rio de Janeiro or Nictheroy to Maldonado, in Uruguay, which eventually will be extended to the Argentine, touching at Santos or some other point on the Brazilian coast.

No monopoly, special privileges or governmental subvention are asked and the rights of third parties are recognized to whom the Government may wish to grant a similar concession. It is specifically stated that the Western Union only intends to engage in international business and will not compete with the local business of the Government's telegraph lines. The company also promises not to charge higher rates than those that are at present in force. It proposes, indeed, to reduce them and to introduce cable and week-end letters as well as other facilities which will benefit the public and the press.

I have also the honor to report, in strict confidence, that the Central & South American Telegraph Co., which recently obtained permission to extend its lines from Buenos Aires to Rio de Janeiro and Santos, will probably soon apply for a concession for a submarine cable from Rio de Janeiro to the island of Fernando Noronha, north of Pernambuco, and from there to Colon, Panama, touching at intermediate points outside of Brazilian territory.

The enclosure accompanying this despatch is a copy of Clause IV of the Western Telegraph Co.'s, concession of 1873, and Clauses I and III of the concession to the French Cable Co. of 1890. These

clauses are open to several interpretations and if the interested American corporations secure concessions to lay cables they will subsequently be obliged to defend their rights in the Brazilian courts because the Western and the French companies will bring suit against them to ascertain the court's ruling on the meaning of these clauses as well as to gain time.

The Western Telegraph Co. holds that, under its concession, the word "point" refers to the whole of the territory of a State, formerly a province, in which the Western has established an office, and that no other company can connect two points which are already connected by its lines.

The French concession appears to prohibit another concessionaire from laying cables which will operate between Brazil and North America, and raises the question whether the Antilles are covered or excepted because a cable going to them would be necessarily *en route* to the United States or Europe.

On account of the probability of an appeal to the Brazilian courts regarding these two questions, the operation of a cable service to the United States by either company will be delayed for several years.

I have [etc.]

EDWIN V. MORGAN

[Enclosure]

Clauses of concessions in force in Brazil which hinder the free entry of American cable enterprises

CLAUSE IV OF THE WESTERN TELEGRAPH CO.'S CONCESSION OF 1873

The term of the concession shall be 60 years to count from the present date.

1. During the said term no other submarine telegraph line may be established from any one point where the enterprise shall have established the stations indicated in the present concession to another point in the same conditions in the whole extension of the lines both north and south. This provision does not prevent the Government from authorizing the establishment of submarine cables by other companies communicating provinces of the Empire among themselves, provided that these provinces be not included in the number of those which, under the present concession, are to be connected by the telegraph line forming the object of the present deed.

2. The Government reserves for itself the right to establish communications by overland electric telegraph wires in any direction, at such points as it may deem most convenient and to its best judgment, administratively or through any private enterprise, the tariffs for private telegraph lines competing with those of the company not to be lower than those of the latter.

CLAUSES I AND III OF THE FRENCH CONCESSION OF 1890

I

The Provisional Government of the Republic of the United States of Brazil grants unto the French companies (Société Française des Télégraphes Sous-Marins and Société Générale des Téléphones) authority to establish, direct or indirect, telegraphic communications by means of one or more submarine cables between the town named Vizeu in the State of Para and the seacoast of the United States of North America, the said companies to use all their efforts to secure the concession from the Government of the latter country to this effect.

The establishment of telegraph cables to Europe starting from any point of the line between the United States of Brazil and North America is expressly prohibited.

III

The present concession is granted for a period of thirty-five years, as from the date hereof, and during its life no other submarine telegraph line shall be authorized to operate between Brazil and the United States of North America.

It is hereby expressly understood that this provision does not limit the power of granting permission to other submarine lines between Brazil and Central America or Mexico.

File No. 832.73/132a

The Secretary of State to the Ambassador in Brazil (Morgan)

[Telegram]

WASHINGTON, January 14, 1918, 7 p. m.

Please inform Brazilian Government O'Shaughnessy in own name authorized by Western Union Telegraph Co. negotiate cable concession.

LANSING

File No. 832.73/136

The Consul General at Rio de Janeiro (Gottschalk) to the Secretary of State

No. 1144

RIO DE JANEIRO, January 23, 1918.

SIR: Referring to my despatch No. 1022 of November 28, 1917,¹ I have the honor to report as follows:

By decree No. 12,845 of January 17, 1918, published on page 1033 of the *Diario Oficial* (Official Gazette) of January 19, 1918, the President of Brazil, in answer to a petition of the Western Telegraph Co., Ltd., alleging the refusal of the Treasury Department to register the contract between this company and the Government (which contract was entered into on December 7, 1917, in virtue of decree No. 12,688 of October 24, 1917²), has now decreed as follows:

Clause 22 of decree No. 12,688 shall be amended to read as follows:

The company will enjoy all the advantages granted to similar companies and enterprises excepting the privilege of exemption of customs duties.

I have [etc.]

A. L. M. GOTTSCHALK

File No. 832.73/143

The Vice Consul in Charge at Rio de Janeiro (Momsen) to the Secretary of State

No. 1249

RIO DE JANEIRO, March 25, 1918.

SIR: Referring to despatch No. 1068 of December 17, 1917,¹ from this Consulate General, I have the honor to report that there was

¹ Not printed.

² Enclosure to despatch No. 1066, Nov. 26, 1917, from Ambassador Morgan, *ante*, p. 58.

published in the *Diario Oficial* (Official Gazette) of March 14, 1918, an order of the Minister of Transportation and Public Works—

granting to Mr. Nelson O'Shaughnessy, representative of the Western Union Telegraph Co., for the company or for any other company which may be organized, permission, without monopoly or special privilege of any kind, to lay and operate two submarine cables from the city of Niteroy (which is the capital of the State of Rio de Janeiro, and situated directly across the bay from this city) : one with landing places on the island of Itaparica, the city of Aracajú, the island of Fernando de Noronha, the cities of Parahyba, Natal and Belem, and from there to the Greater Antilles; and another from Niteroy to the city of Paranaguá, to be connected with Maldonado in the Republic of Uruguay, with permission to be prolonged to the Republic Argentina.

I have [etc.]

R. P. MOMSEN

File No. 832.73/143a

The Secretary of State to the Ambassador in Brazil (Morgan)

[Telegram]

WASHINGTON, April 19, 1918, 7 p. m.

Request the Minister for Foreign Affairs to inform the Minister for Public Works that Mr. Frank Carney, the agent of the Central & South American Telegraph Co., is authorized by that company to renew the application made by him on April 12, 1915, for a concession in his own name for the laying of a cable from Rio de Janeiro to Cuba touching at Fernando de Noronha and places in the West Indies and to negotiate the same.

If you think it advisable in order that this concession may be secured by the American company, you may inform the Foreign Office of the interest this Government takes in the granting of the concession.

LANSING

File No. 832.73/151

The Ambassador in Brazil (Morgan) to the Secretary of State

No. 1260

RIO DE JANEIRO, May 17, 1918.

SIR: Continuing the subject of the Embassy's despatch No. 1088¹ I take pleasure in reporting that the text of the concession for an American submarine telegraph which Mr. Nelson O'Shaughnessy, as representative of the Western Union Telegraph Co., obtained from the Brazilian Government through an executive decree of March 13, 1918, was published in the *Official Gazette* of May 15. Before the concession becomes fully legalized it must be registered in the "Tribunal de Contas" and the contract which defines the manner in which the concession shall be carried out must be signed by the Minister of Public Works and Mr. O'Shaughnessy who awaits instructions from his principals before attaching his signature. Through Mr. O'Shaughnessy's courtesy I am able to furnish the Department promptly with the translation of the concession which is enclosed.

¹ *Ante*, p. 62.

The Department will observe that the concession does not provide for a landing at or near the city of Santos and that by this omission half of the business is made impossible which the Western Union Telegraph Co. would naturally obtain. This omission, it is believed, can be corrected when São Paulo in the person of Conselheiro Rodrigues Alves, takes possession of the Federal Executive power next November. The São Paulo State government has always gone on record as wishing to benefit from the advantages which the concession affords for direct communication with the United States. In view of the strong British influence which is at present being exercised upon the Federal Government resulting from the presence of the British mission, Mr. O'Shaughnessy has been obliged to forego the immediate prospect of securing the Santos landing. The Western Telegraph Co., Ltd., has mobilized all its influence to defeat his purposes and it should be regarded as a matter of satisfaction that in face of British pressure he should have obtained so satisfactory a concession as the one to which this despatch refers.

I have [etc.]

EDWIN V. MORGAN

[Enclosure—Translation]

Decree No. 12,920 of March 13, 1918

The President of the Republic of the United States of Brazil, in attention to the request submitted by Nelson O'Shaughnessy, representative of the Western Union Telegraph Co., decrees:

SOLE ARTICLE: Permission is hereby granted to Nelson O'Shaughnessy, representative of the Western Union Telegraph Co., for himself or for such company as he may organize, but without monopoly or privilege of any sort, to lay and operate two submarine cables starting from the town of Nictheroy and landing: one on the island of Itaparica, at the town of Aracajú, on the island of Fernando de Noronha, at the towns of Parahyba, Natal and Belem, whence it shall run to the Greater Antilles; and the other from Nictheroy to the town of Paranagua, whence it shall run to the town of Maldonado, in the Republic of Uruguay, and eventually extending itself to the Argentine Republic, in accordance with the clauses accompanying the present decree under the signature of the Minister of State for the Affairs of Roads and Public Works.

RIO DE JANEIRO, March 13, 1918, 97th [year] of the Independence of Brazil and 30th of the Republic.

WENCESLAU BRAZ P. GOMES
AUGUSTO TAVARES DE LYRA

CLAUSES REFERRED TO IN DECREE No. 12,920 OF THIS DATE

I

Permission is hereby granted to Nelson O'Shaughnessy, representative of the Western Union Telegraph Co., for himself or for such company as he may organize, but without monopoly or privilege of any sort, to lay and operate two submarine cables starting from the town of Nictheroy and landing: one on the island of Itaparica, at the town of Aracajú, on the island of Fernando de Noronha, at the towns of Parahyba, Natal and Belem, whence it shall run to the Greater Antilles; and the other from Nictheroy to the town of Paranagua, whence it shall run to the town of Maldonado, in the Republic of Uruguay and eventually extending itself to the Argentine Republic.

II

The Government shall lease to the company such available marine lands as may be necessary at the points of the seacoast for the anchorage of the telegraph cables, the company having the right to expropriate, in accordance with the law, such lands, timber, and further materials belonging to private parties, as may be indispensable for the establishment of the underground cables intended for the connection of the landing points with the company's stations.

III

The landing points shall be determined by agreement with the Government and shall be linked with the company's stations by means of overhead or underground conductors or a combination of the two systems, as may be deemed most convenient at the discretion of the Government.

IV

The laying and landing of the two cables shall be made within five years as from the date of the execution of the contract, cases of *force majeure* at the discretion of the Government always excepted, and the plans of the landing points and the routes of the lines proposed to link up such points with the stations shall be submitted to the Government for approval not less than sixty days previous to the date of the laying out of such linking lines.

Sole paragraph: The delay stipulated in the present clause may be extended one or more times at the discretion of the Government.

V

Whenever there may be sufficient accommodation in the buildings of the national telegraph at the landing points of the concessionaire's cables, the company may install its stations therein by paying such rent as may be agreed upon, or the company may install its stations in private buildings of its own property or otherwise, and these stations shall, in any case, be connected to the Government stations by means of pneumatic tubing (or any other more perfected system) for the more expedient exchange of correspondence.

VI

The following provisions shall govern the telegraphic traffic, namely:

(a) The concessionaire may receive and collect charges upon such local telegrams as may be presented for dispatch, as also deliver direct to their destination all local telegrams received, so long as similar services carried out by the other companies operating in this country shall not have been taken over exclusively by the national telegraph.

(b) Nevertheless, all telegrams sent to other stations of the union telegraph system shall be routed through the stations of the General Telegraph Department.

VII

The company is bound to establish mutual interchange of inland and international traffic with the Government lines in regard to messages received from and addressed to the union stations, excepting messages relative to the points provided with stations of the company and the route indicated by the sender shall be always respected.

1. The rates to be established in the contract for international mutual traffic between the Government and the company shall be equal to those existing in contracts in force with similar companies.

2. In case of interruption of the overland international lines to the Plate Republics, the company's cables shall constitute "loaned routes" on the conditions set forth in Clause VIII.

3. In respect of such inland service as shall by reason of the indication of route made by the sender be deviated from the Government land lines to the coastal cables of the company, the latter shall pay to the Government the whole amount of the rates which it would have collected if the service had passed over its lines from the origin to the destination.

VIII

In case of interruption of the Brazilian, Argentine, and Uruguayan land lines, the international service addressed to the Argentine Republic, Uruguay, Paraguay, Bolivia and Chile shall be transmitted by the company's cables in their quality of "loaned routes," the amount charged by Brazil for the traffic over the land lines to be divided in equal shares between the Government and the company.

Sole paragraph: Telegrams transmitted by "loaned route" shall not be liable for the contribution referred to in Clause XI.

IX

The company undertakes to maintain its cables in good working condition capable of assuring proper service to the traffic and must notify the Government within a period of not more than forty-eight hours of all and any occurrence occasioning or which may eventually occasion an interruption of the service.

X

The tariffs shall be organized by the company and submitted to the Government for approval, and the rates (which shall be made payable in paper currency) shall not be higher than the rates charged by similar companies operating in the country.

XI

The company undertakes to pay to the Government a contribution of ten centimes of a franc per word of international messages carried by the cables referred to in Clause I.

Sole paragraph: This contribution shall be reduced to five centimes of a franc per word in respect of service messages of the Brazilian Government, press messages and deferred messages.

XII

Terminal and transit rates to be carried to the debit of the company in respect of international combined traffic service shall be the same as those in force for combined service with the remaining cable companies operating in the country.

XIII

The company shall not have the power to amalgamate or to enter into any combination or convention with any other company of the same nature operating in Brazil, unless it shall have previously obtained the consent of the Government.

Sole paragraph: Such telegrams as by virtue of indication of route shall have to be exchanged with other companies operating in the country shall be exchanged through the stations of the Department General of Telegraphs and the adjustment of accounts relative to such service shall be conducted through those stations and in this case the concessionaire shall pay them one franc per telegram as an indemnity for the expense in office work.

XIV

Accounts shall be adjusted with the Department General of Telegraphs quarterly and the amount owing shall be settled within the quarter next following that to which the adjustment refers.

XV

The company is held under the obligation to adhere to the telegraphic convention of St. Petersburg, in accordance with the international regulations issued in conformity with the same and shall enjoy the benefits resulting from the same convention.

XVI

The Government shall supervise as it may deem convenient all the service of the company in Brazil.

The company shall contribute towards the expenses with the supervision a sum of eighteen contos of reis (rs. 18:000\$000) in paper currency per annum, payable by quarterly instalments in advance into the National Treasury.

XVII

The telegrams of the Government of Brazil shall be transmitted preferentially and shall benefit of a reduction of 50 per centum of the company's own rates.

XVIII

The company shall admit over its cables the international deferred message service at a reduction of 50 per centum of its usual rates.

XIX

The following shall be transmitted free of charge:

(I) Telegrams (of not more than 20 words each) sent by the Government of Brazil or by the agents thereof from South or North America notifying the appearance of some epidemic disease in the country whence they are sent or in the neighboring countries, or such other facts as may constitute a notorious public calamity;

(II) Two telegrams daily (one in each direction) between the observatory at Rio de Janeiro and one observatory in North, Central or South America, and the Government shall pay for the words in excess of the number of twenty in each telegram at the rates for official telegrams.

XX

The company undertakes to maintain in Rio de Janeiro a representative vested with full powers to treat and decide in a definite manner all questions that may arise in the country in respect of the company or its staff, and the said representative shall be empowered to receive initial summons and such other summons in respect of which the laws require special powers.

XXI

In case of temporary cessation of the service in the cases provided for in Article 8 of the telegraph convention of St. Petersburg, no indemnity whatever shall be paid to the company, however long it may last.

XXII

The company shall enjoy all favors granted to similar companies and enterprises operating in this country and allowed by law, and its cable ships shall enjoy the privileges of national ships. The company shall be subject to payment of customhouse duties on such material as it may import for the installation, maintenance and operation of the services entrusted to it.

XXIII

In the event of non-compliance with any one or more of the present clauses, the Government shall have the power to impose upon the company fines ranging between the sums of two hundred milreis and two contos of reis (paper currency) and the double the amount in case of recurrence of the offense.

The amount of any fine imposed by the Government shall be paid into the National Treasury not later than thirty days after the date on which it shall have been imposed, as published in the *Diario Official*.

XXIV

The laws of Brazil shall alone be applicable for the purpose of deciding all and any question relative to the present contract, whenever the same shall not be settled by arbitration.

Sole paragraph: In effecting the arbitration, each one of the parties shall nominate one arbitrator and if the latter shall not agree, the matter shall be referred to an umpire whose name shall be chosen by lots among two names submitted by the parties respectively. No appeal shall be taken from the decision of the umpires.

XXV

As a security of the fulfilment of the provisions of Clause IV, the company shall deposit with the National Treasury prior to the signature of the respective contract, the sum of forty contos of reis (rs. 40:000\$000) in paper currency without any right to interest, or in Federal Government bonds.

Sole paragraph: Out of this sum of forty contos of reis, one half shall be returned to the company six months after the definite inauguration of the traffic of the line between Nictheroy and Belem, and the remaining half six months after the definite inauguration of the traffic of the line between Nictheroy and Maldonado. Should the delay stipulated in Clause IV be exceeded and fail to be extended by the Government, the deposit of forty contos of reis shall be forfeited in favor of the Government in respect of twenty contos of reis for the line between Nictheroy and Belem and twenty contos of reis for the line Nictheroy-Maldonado.

XXVI

The permission referred to in Clause I may be declared null and void independently of any action or judicial notification and the company shall not thereby be entitled to any sort of indemnity:

(I) If, on expiry of the delay fixed in Clause IV, the cables which the company undertakes to lay shall not have commenced to operate regularly, cases of *force majeure* so considered at the discretion of the Government always excepted;

(II) If the telegraphic communications over the cables referred to in Clause I shall be interrupted during more than six months consecutively, cases of *force majeure* so considered at the discretion of the Government always excepted;

(III) If the company shall enter into any combination or convention with an enterprise or company of like nature operating in Brazil without the previous consent of the Government;

(IV) If the company shall fail to pay into the National Treasury in due time the instalments due for supervision in accordance with Clause XVI.

XXVII

If for any reason whatever the company shall fail to avail itself of the permission to land at one or more of the points mentioned in Clause I, it shall forfeit the right in connection with such points and shall pay to the Government a fine of ten contos of reis (rs. 10,000\$000), but this shall not affect its right to carry on the service over the remaining lines constructed and in operation.

XXVIII

The permission referred to in Clause I shall become null and void if the company shall refuse to sign the respective contract within thirty days as from the date of publication of the decree approving the present clauses.

RIO DE JANEIRO, 13th of March 1918.

A. TAVARES DE LYRA

File No. 832.73/149

The President of the Western Union Telegraph Co. (Newcomb Carlton) to the Secretary of State

NEW YORK, May 31, 1918.

DEAR SIR: We have just received advices by letter and by cable from Mr. O'Shaughnessy from which we are able to gather the contents of the material clauses of the concession lately published by the Brazilian Government for a submarine cable between that country and one of the Greater Antilles. On examining the text of the clauses in question, we find that certain amendments, for which we had instructed our representative to ask and which previous reports from him indicated would be accepted, were finally refused by the Brazilian authorities.

One of these amendments was intended to give us the right to lay the cable between Brazil and the Antilles "directly or indirectly," our plant department having advised us that a single stretch of cable without an intermediate landing would be commercially unworkable because of electrical resistance and consequent lack of speed. In this relation it may be observed that the concession granted to the French Cable Co. in 1890 to lay a cable from Brazil to the United States expressly provided that the cable might be laid "directly or indirectly."

The other amendment was intended to give us the right to land at some point other than Belem in the State of Para. We deemed this to be important not only for plant reasons but also for the reason that it was not impossible that we might in the end find ourselves excluded from Belem as a point already occupied by the Western Telegraph Co., in view of the fact that we might wish to land at another western point south of Belem.

The rejection of these amendments, to which we had no notice that objection would be made and to which no legitimate objection from the point of view of the Brazilian Government seemed possible, leads to the conclusion that at the last moment rival interests, and particularly the Western Telegraph Co., were able to exert a decisive influence to the end that the concession should be put into a form which if accepted by us would offer as little prospect as possible of serious competition.

We have notified Mr. O'Shaughnessy that the concession was not acceptable to us, which will, we fear, determine the matter unless your Department can see its way to intervene in our behalf.

Faithfully yours,

NEWCOMB CARLTON

*The Acting Secretary of State to the Ambassador in Brazil
(Morgan)*

[Telegram]

WASHINGTON, June 5, 1918, 7 p. m.

Department advised by Western Union Telegraph Co. that concession obtained from Brazilian Government by O'Shaughnessy for a submarine cable between Brazil and one of the Greater Antilles is not acceptable to the company because certain amendments to the concession were refused by the Brazilian Government. One of these amendments was intended to give the company the right to lay the cable between Brazil and the Antilles "directly or indirectly." The other amendment was intended to give the company the right to land at some point other than Belem in the State of Para. Western Union Telegraph believes refusal of these amendments due to influence of Western Telegraph Co.

Consult with O'Shaughnessy and if possible help him obtain desired amendments to concession as this Government is very much interested in the laying of American cables.

POLK

File No. 832.73/153

*The Acting Secretary of State to the Ambassador in Brazil
(Morgan)*

[Telegram]

WASHINGTON, July 12, 1918, 7 p. m.

For O'Shaughnessy from Carlton. You are authorized to sign.

POLK

File No. 832.73/154a

*The Acting Secretary of State to the Ambassador in Brazil
(Morgan)*

[Telegram]

WASHINGTON, August 2, 1918, 4 p. m.

Department informed by Central & South American Telegraph Co. that Western Telegraph Co., following up its plan of attempting to obstruct concessions in Brazil desired by Central & South American Telegraph Co., has made use of reports in local press to the effect that the United States Government was to take over all telegraph and cable companies on July 31.

As a matter of fact, the United States Government has only taken over interior telegraph lines and has not taken over cable companies. If you deem it advisable, use the foregoing information to rectify the above-mentioned press reports.

POLK

File No. 832.73/155

The Ambassador in Brazil (Morgan) to the Secretary of State

No. 1347

RIO DE JANEIRO, August 13, 1918.

SIR: On March 20, 1917, in despatch No. 878,¹ Chargé Benson, in continuation of previous correspondence on the general subject of the success of the Central & South American Telegraph Co. in securing a concession for laying submarine cables along the Brazilian coast, called the Department's attention to a recent agreement between the Brazilian Government and the Western Telegraph Co. whereby a special uniform rate of three francs per word was authorized on all telegrams to the United States "via Galveston" or "via Colon" in payment of transmission from any station in Brazil, regardless of zones, to Buenos Aires. On March 22, [1917],² 4 p. m., the Department instructed this Embassy by telegraph (referring to this agreement, which was published in the *Official Gazette* of February 18, 1917) to express to the Foreign Office the Department's hope that the Government of Brazil would find a method of modifying the said agreement which amounted practically to a discrimination against telegrams exchanged between the United States and Brazil and, therefore, placed these telegrams in an unfavorable position in contrast to telegrams exchanged between Brazil and other foreign countries.

The correspondence between this office and the Brazilian Government on the subject of this special rate was initiated on March 23, 1917, in a note which embodied the Department's instructions. On July 17, 1917, the Foreign Office wrote the Embassy that, according to the information furnished to the Minister of Public Works by the Director General of Telegraphs (a copy of which was attached),

¹Ante, p. 45.²Ante, p. 46.

telegrams exchanged between Brazil and the United States were not placed in a disadvantageous position, because a new route, via the Pacific, had been opened to them at a rate which was lower than that at first demanded by the Western Telegraph Co.

Since this reply was unsatisfactory, I was constrained to address another note to the Foreign Office, to which an answer was received on January 4, 1918, accompanied by a long report from the Director General of Telegraphs to the Minister of Public Works.

Like its predecessor, this report contained lengthy arguments which, however, by no means destroyed the contention that the measure adopted amounted to a discrimination against American interests, and I felt it my duty to contest the allegations made by the Director General of Telegraphs, which I did in a further note to the Minister for Foreign Affairs.

During all this correspondence, which has been supplemented by a number of conversations, the Ministry of Foreign Affairs has taken no initiative in the matter, but has invariably referred the question to the Minister of Public Works, although the subject matter is one which directly interests relations between the two countries.

From the various reports made by the Director General of Telegraphs, it is evident that he has made a strong though unavailing attempt to justify the action for which he is directly responsible.

However, the last note received from the Ministry for Foreign Affairs, under date of June 25, 1918, contains a final report from the Director General of Telegraphs in which he confesses that the rate in question is a prohibitive one, but that the Brazilian Government is impotent to oblige the Western Telegraph Co. to modify it except by canceling the company's franchise to operate in Brazil, which action is obviously too extreme a measure to be adopted for the correction of the offense committed.

The service from the United States to Brazil, via the Pacific Coast, is superior to that via London, but the surtax of approximately 25 cents, U. S. gold, per word, between Brazil and Buenos Aires, forces senders to transmit their messages via England, where they are subject to British censorship with its diverse inconveniences for American interests.

If this discrimination rate is to be removed, a strong position will have to be taken by the Department when the new Federal administration takes office in November.

I have [etc.]

EDWIN V. MORGAN

The Secretary of State to the Ambassador in Brazil (Morgan)

No. 491

WASHINGTON, September 27, 1918.

SIR: The Department has read with interest your despatch No. 1347 of August 13 last, regarding the agreement between the Brazilian Government and the Western Telegraph Co., whereby a special uniform rate of three francs per word was authorized on all telegrams to the United States "via Galveston" or "via Colon" in payment of transmission from any station in Brazil, regardless of zones, to Buenos Aires and regarding the efforts of the Embassy to modify

this agreement which amounts practically to a discrimination against telegrams exchanged between the United States and Brazil.

The Department has discussed this matter informally with Ambassador da Gama, who, as you know, will return shortly to Rio to assume the position of Minister for Foreign Affairs. The Ambassador appears to agree with the Department that the rate in question is a discriminatory one but he is inclined to believe that the question is one which can be more appropriately handled by the courts than by the Foreign Office. He says, nevertheless, that he will investigate the situation upon his return to Brazil and see if there is not something that he can do toward accomplishing the establishment of a more equitable rate.

The Department suggests, therefore, that after Mr. da Gama becomes Minister for Foreign Affairs of Brazil you reopen the question with him.

The various difficulties encountered in dealing with the Western Telegraph Co. make the importance of an American cable connecting Rio with the United States all the more evident. The Department, therefore, reiterates its instructions to you to do everything proper to facilitate attempts of American cable companies to construct such a line.

I am [etc.]

ROBERT LANSING

FILE NO. 832.73/167

The Vice Consul in Charge at Rio de Janeiro (Momsen) to the Secretary of State

RIO DE JANEIRO, November 30, 1918.

By decree No. 13,262 of November 1, 1918, a concession was granted to Frank Carney, for himself or for any company he might organize, with permission to lay, maintain and operate a submarine cable from the city of Rio de Janeiro and terminating at any point on the island of Cuba, without special privileges or monopoly, and without Government subsidy, according to the following clauses agreed upon by the Minister of Public Works:

ARTICLE 1

There is granted to Frank Carney, for himself or any company he may organize, permission to lay and connect with the coast of Brazil, as well as to maintain and operate, a submarine telegraph cable, from the city of Rio de Janeiro to terminate at some point on the island of Cuba, with a station which shall not be open to public traffic on the island of Fernando de Noronha on the coast of Brazil, and other stations at any intermediary points outside Brazil, at which the concessionaire or the company organized by him shall consider convenient or necessary for public uses, but the permission hereby granted does not constitute any privilege or monopoly of any kind whatsoever in favor of the concessionaire and the Government reserves for itself complete liberty of action, in its discretion, to grant similar permission to any individual or company which may solicit it.

ARTICLE 2

In these clauses the word "Government" will signify the Government of the United States of Brazil, and the word "concessionaire" will signify the concessionaire of the submarine telegraph service covered by this decree or the company organized by him.

ARTICLE 3

It is expressly understood that the submarine cable mentioned in clause 1 shall not, under any circumstances, connect with the coast of the United States of North America.

ARTICLE 4

The connecting of the cable at Rio de Janeiro will be done outside of the harbor in order not to injure shipping movement.

The place of connection, determined and chosen in accordance with the wishes of the Government, will be connected with the concessionaire's station in Rio de Janeiro by means of cables laid in the bay, upon permission of the proper authorities or by means of underground conductors, and whenever he deems it convenient or necessary the concessionaire may adopt both systems.

ARTICLE 5

The laying and connecting of the cable mentioned in clause 1 shall be done within four years beginning from the date of signing the contract, except in case of *force majeure*, at the discretion of the Government, and all plans of the places of landing in Brazilian territory as well as elsewhere, and the directions of the connecting lines between the landing point at Rio de Janeiro and the concessionaire's station in that city shall be submitted for the approval of the Government at least sixty days before the laying of these connecting lines.

Sole paragraph: The period of four years stipulated in this clause may be prolonged one or more times at the discretion of the Government.

ARTICLE 6

Whenever there shall be sufficient room in the building of the National Telegraph in the city of Rio de Janeiro, the concessionaire may there install his station, paying such rental as may be agreed upon, or the concessionaire may install his station in a private building, of his ownership or not, this station in any case to be connected with the one of the Government by means of pneumatic tubes or other perfected system for the most rapid exchange of communications.

ARTICLE 7

With respect to the telegraphic traffic, the following will be observed:

A. The concessionaire will receive and tax local telegrams which may be presented to him for sending and also deliver to homes the local telegrams received, whenever similar services of the other companies in the country are not done exclusively by the National Telegraph.

B. All telegrams directed to stations forming a part of the Government telegraph system, however, will be transmitted through the stations of the Department of Telegraph.

ARTICLE 8

The concessionaire shall be obliged to establish mutual traffic with the Government lines belonging to the services received from and directed to the stations of the Government, excepting such services as relate to the city of Rio de Janeiro, always observing the route directions indicated by the sender.

Sole paragraph: The charges to be fixed in the contract of mutual traffic between the Government and the concessionaire shall be the same as those of contracts now in force with similar companies operating in the country.

ARTICLE 9

The concessionaire obliges himself to keep up the cable mentioned in clause 1 in condition for good service, obliging himself to inform the Government within forty-eight hours of any occurrence which may cause an interruption of the service.

ARTICLE 10

The rates shall be established by the concessionaire and submitted for approval of the Government, and such charges as are made in paper money shall not exceed those of the companies already operating in the country.

Sole paragraph: The approved rates, when reduced, may not be increased without authorization of the Government.

ARTICLE 11

The concessionaire obliges himself to pay to the Government a tax of 10 centimes of a franc per word on international telegrams which may be transmitted by the cable mentioned in clause 1.

Sole paragraph: This tax will be reduced to 5 centimes of a franc per word in cases of telegrams of Government service, press telegrams and deferred messages.

ARTICLE 12

The terminal and transmission taxes to be debited to the concessionaire by reason of international service in mutual traffic will be those in force in the mutual traffic with the other cable companies operating in the country.

ARTICLE 13

The concessionaire may not make any merger, adjustment or agreement with any other similar enterprise operating in Brazil without previous consent of the Government.

Sole paragraph: The telegrams, by reason of route indications, which must be exchanged with other companies operating in the country shall be routed by the stations of the Director General of Telegraphs at Rio de Janeiro, with which the adjustment of accounts relative to this service shall be made, the concessionaire to pay in this case, one franc per telegram under the title of "indemnization of overhead expenses."

ARTICLE 14

The adjustment of accounts with the Director General of Telegraphs shall be made every three months, and the debit resulting shall be liquidated within the following period of three months.

ARTICLE 15

The concessionaire obliges himself to comply with the telegraph convention of St. Petersburg, in accordance with the international regulations issued in conformity therewith and the privileges of the said convention are guaranteed to him.

ARTICLE 16

The Government will rent to the concessionaire said foreshore lands available on the coast as may be necessary for the connection of the telegraph cable, and the concessionaire may petition the expropriation, according to law, of the lands, timber and other materials belonging to private persons which may be indispensable for the establishment of underground conductors for the purpose of connecting the landing point with the station in the city of Rio de Janeiro.

ARTICLE 17

The Government will supervise as it may deem convenient all of the service of the concessionaire in Brazil.

ARTICLE 18

For the expense of the supervision the concessionaire will pay annually the sum of rs. 12:000\$000 (about \$3,000 in American currency) in paper money, payable each semester in advance and deposited in the National Treasury.

ARTICLE 19

The telegrams of the Brazilian Government shall be given preferential transmission and will enjoy a reduction of 50 per cent of the usual rates of the concessionaire.

ARTICLE 20

The concessionaire will receive international deferred cable service with a minimum deduction of 50 per cent on the usual rates.

ARTICLE 21

There will be transmitted gratuitously:

First: The telegrams, each one not exceeding 20 words, transmitted by the Government of Brazil or by its agents in Central America, Mexico or North America, communicating the outbreak of any epidemic in the country from which they be transmitted or in the neighboring countries, or the facts of a notorious public calamity.

Second: Two telegrams per day (one in each case) between the observatory of Rio de Janeiro and an observatory in Cuba, the Government paying the tax of official telegrams for the number of words exceeding 20 in each telegram.

ARTICLE 22

The concessionaire obliges himself to maintain in Rio de Janeiro a representative with full powers to act upon and definitely decide all questions which may arise in the country concerning himself or his personnel, and he shall be subject to judicial summons as well as all others which may require special powers.

ARTICLE 23

By the suspension of the service in the cases foreseen in Article 8 of the telegraph convention of St. Petersburg no indemnization shall be paid to the concessionaire regardless of its duration.

ARTICLE 24

The concessionaire will enjoy the favors granted to companies of similar enterprises which operate in the country, including those concerning cable ships which enjoy the privilege of domestic vessels, but he shall be subject to the payment of customs duties on materials imported for the installation, conservation and exploitation of the service with which he is charged.

ARTICLE 25

If any of these clauses should not be observed the Government may impose fines upon the concessionaire of rs. 200\$000 to rs. 2,000\$000 (about \$50 to \$500 in American currency) and double these amounts in case of repeated offenses.

The sum of any fine imposed by the Government will be deposited in the National Treasury within 30 days after levying it, published in the *Diario Oficial*.

ARTICLE 26

The laws of Brazil shall be the only ones applicable for a decision in any question concerning the present contract if the same be not determined by arbitration.

Sole paragraph: For the arbitration, each party will name an arbitrator and if they do not concur, they will by lot draw a third arbitrator of two names presented, one by each of the parties. From the decision of the third arbitrator there will be no appeal.

ARTICLE 27

In order to guarantee compliance with clause 5, the concessionaire will deposit in the National Treasury, before signing the contract, the sum of rs. 40:000\$000 (about \$10,000 in American currency) in paper money, without the right of interest, or in bonds of the Federal public debt.

Sole paragraph: This sum of rs. 40:000\$000 will be returned to the concessionaire six months after the definite inauguration of traffic by the cable mentioned in clause 1. If the time stipulated in clause 5 be exceeded by the Government [concessionaire?], the deposit of rs. 40:000\$000 will revert in favor of the Government.

ARTICLE 28

The permission mentioned in clause 1 may be declared null, independent of any action or judicial interpretation and without any right of indemnization to the concessionaire:

First: If, on the termination of the period fixed in clause 5, the cable which the concessionaire obliges himself to lay, shall not have commenced regular operation, except in case of *force majeure*, at the discretion of the Government.

Second: If the telegraph communication by cable mentioned in clause 1 be interrupted for more than six consecutive months except in case of *force majeure*, at the discretion of the Government.

Third: If the concessionaire executes any agreement with an enterprise or company of the same kind operating in Brazil, without previous authorization of the Government.

Fourth: If the concessionaire neglects to deposit in the National Treasury at the proper time the amounts due for supervision, in accordance with clause 18.

ARTICLE 29

The permission in clause 1 shall be without effect if the concessionaire refuses to sign this contract within thirty days counting from the publication of the decree approving these clauses.

R. P. MOMSEN

MESSAGE OF PRESIDENT WENCESLAU BRAZ P. GOMES TO THE NATIONAL CONGRESS

File No. 832.032/16

The Ambassador in Brazil (Morgan) to the Secretary of State

[Extract]

No. 1238

RIO DE JANEIRO, May 14, 1918.

SIR: . . . I have the honor to enclose a copy of the President's message with a translation of the principal portions. These relate to Brazil's participation in the war, laws to check enemy activities and measures looking toward cooperation with the Allies. Reference is also made to the attitude of Brazil toward enemy-trading lists and the negotiations by which a large number of ex-German vessels which had taken refuge in Brazilian ports were chartered to France. One of the most interesting paragraphs to us bears upon the cooperation of a small Brazilian squadron with the Allied fleets which began with an invitation from the British Government on the 21st of December last and ended with the proposal that the Brazilian vessels, under the command of a high-ranking British naval officer, should operate in conjunction with a detachment of the American Navy. The message states:

This new resolution could not fail to be agreeable to the Brazilian Government in view of which our warships and those of the United States would cooperate with the British naval forces for the purposes of protecting and maintaining the principal maritime routes between the two continents.

This will be the second instance of cooperation between the two navies of this continent since in the middle of last year the Brazilian Government entered into an agreement by which its naval forces would patrol the Brazilian coast in cooperation with the squadron of the United States of America.

A summary is enclosed, also, of the financial features of the message.¹ This shows that the Government's situation is better than it was but that resort has again been had to a considerable extent to the issue of paper money which is designated as an indirect loan which distributes itself insensibly.

I have [etc.]

EDWIN V. MORGAN

¹ Not printed.

[Enclosure—Translation]

Message of the President, delivered at Rio de Janeiro May 3, 1918

The National Congress, in adopting the measures recommended in the message of November 3 and other measures which their patriotism suggested to them, passed our declaration of war which, properly approved, was published under No. 3393, dated November 16, 1917. This law authorized the Government from that date until the 31st of December of the same year to establish martial law in those parts of the Union where the situation required it, and adopted other measures among which were, that contracts and operations realized with enemy subjects were invalid; that reprisals might be decreed, that public contracts and concessions, concerning government land, might be rescinded or revised; and authorized the dissolution and liquidation of partnerships and corporations in which enemy subjects were included. It established the basis upon which union, banks, factories, and storehouses could be considered enemy property; treated of double nationality and naturalization; the registration, inscription, fiscalization, sequestration, administration and eventual liquidation of enemy property; enemy life insurance companies operating in Brazil; and directed the deposit in the National Treasury of funds realized from any of the above operations with reference to enemy property. It gave approval to the steps taken by the Government under the provisions of law in accordance with decree No. 3361 of October 26, 1917. It authorized the opening of credit for the execution of the said law and put the law into effect immediately.

The outbreak of the war led the belligerent Governments of the Entente and the nations which were associated with them to unite and coordinate their assets against the common enemy with the purpose of effecting the triumph of the cause of liberty, justice, civilization and humanity. To this end inter-Allied conferences have been held, in which plans of campaign and other steps of common interest were determined.

The Brazilian Government was invited on the 13th of November to send a representative to the conference of that nature which was held in Paris on the 30th of that month and closed its sessions on the 3d of December. Dr. Olyntho M. de Magalhães, our present minister to France, was immediately designated of this representation and took part in the deliberations of that conference.

In January of the present year the Ministry of Blockade of the French Government asked the Brazilian Government to designate a delegate to participate in the work of the Permanent International Committee of Economic Action, created by the First Inter-Allied Conference of March 19, 1917.

In response to this courteous invitation the Government on the 26th of January designated our Minister in Paris to represent Brazil in this capacity on committees or inter-Allied conferences which might there be called together. Dr. Olyntho de Magalhães took part on the 23d of February in the first deliberation of the said Permanent International Committee of Economic Action.

With reference to the steps taken by the Federal Government for the prohibition of shipment of contraband merchandise and other interdictions imposed upon the enemy, our delegate was authorized to declare to this committee that our law authorizing the declaration of war prohibits the Germans from foreign commerce, whether of importation or exportation, and prohibits our national steamers from transporting enemy cargo, and to say that all merchandise consigned to them carried in neutral ships are held in Brazilian customhouses; that the same law does not permit the enemy to remit funds to foreign countries and has rescinded all contracts for public works or services which have been made with enemy subjects; that among other measures of reprisal and national defense it was also prohibited for them to obtain concession of land.

Our war measures follow the general lines of other belligerent countries with the exception that Brazil has not confiscated enemy property or stopped their internal commerce, which latter step is in accordance with the acts of the United States of America.

The Government of Brazil has endeavored to give practical expression to its entire accord with the Allied powers in the war in which they are all engaged against the German Empire and has so advised the British Government. The British Foreign Office in a note of the 21st of December, 1917, directed to our Legation in London, in thanking us for this communication, inquired if we

could send a fleet of fast cruisers and destroyers to cooperate at a certain point under the orders of the English vice admiral in command of the section.

On the 31st of December our Minister in London was authorized to communicate to the British Admiralty that in accordance with our desire to render substantial cooperation a fleet was being prepared of the scouts *Rio Grande do Sul* and *Bahia*, destroyers *Parahyba*, *Rio Grande do Norte*, *Piauhy* and *Santa Catharina*, which would proceed to European waters under the single naval command to the point designated and that those ships were prepared to arrive there upon a date to be determined.

Afterwards the Legation of His British Majesty in this capital, in a note of the 11th of February, advised that the British Admiralty considered that the units of the Brazilian Navy which expected to cooperate with the British naval forces would render better service to the cause of the Allies if they should proceed to a different point than that which had previously been decided upon and there cooperate under the command of a high-ranking British naval officer in conjunction with a detachment of the Navy of the United States of America, which at that time was stationed at the said point.

This new resolution could not fail to be agreeable to the Brazilian Government in view of which our warships and those of the United States would cooperate with the British naval forces for the purposes of protecting and maintaining the principal maritime routes between the two continents.

This will be the second instance of cooperation of the two navies of this continent since in the middle of last year the Brazilian Government entered into an agreement by which its naval forces would patrol the Brazilian coast in cooperation with the squadron of the United States of America.

I turn now to the very important matter of the relations of our commerce to that of foreign countries. I desire to refer to the policy of economic defense which the British Government and her allies have adopted against the common enemy in creating the black lists, which prohibited commerce of firms of their nationals with subjects of enemy countries, the principal of which is the British Statutory List created by the Trading with the Enemy Law of 1915. It is unnecessary to repeat what was said on this subject in previous annual messages, it is enough to add that important notes were exchanged on the 9th and 12th of August, 1916, between our Ministry of Foreign Affairs and the British Legation. The Ministry again reopened the matter in a note of September 3d, 1917, addressed to the said Legation and in which the previous notes were reviewed, recognition duly granted, and attention invited to the fact that this Government has always secured a modification of unjust or unduly severe measures, and proposed the following:

The situation, however, cannot be limited to the concession of favors. The successive and recent proclamations setting forth new additions to the statutory list, especially after investigation, require a corrective measure of a more or less general nature.

The suspension of commercial relations with Germany and the declaration that Brazil is no longer neutral in the war should define the situation and facilitate a consideration of this vital matter.

With the special fiscalization which the circumstances have imposed upon maritime commerce and navigation, the Brazilian Government believes it convenient to make a more rigorous examination of the methods under which those operations are carried on with the idea of avoiding, if possible, measures which affect adversely friendly countries, and in view of the fact that Brazil is no longer a neutral nation this examination cannot fail to interest and affect domestic commerce inasmuch as it provides the connection from which foreign commerce is derived.

To this end and without recognizing the principles upon which it was promulgated nor of having a statutory list of her own, the Brazilian Government desires and hopes that all cases individually will be submitted to it in which it is planned to take action.

After an exchange of explanatory notes, one from the Legation dated the 8th and one from the Ministry dated the 10th, stating that the names to be submitted to the Brazilian Government would be only firms or persons who were entirely Brazilian and that if the proposal of that Government were accepted it would take all the necessary steps for the defense of Allied commerce, the Legation communicated, in a note of the 12th of the same month, the provi-

sional assent of its Government, pending an examination of the details of the Brazilian proposal and adding that the agreement would be effective as of the same date. Such a British-Brazilian agreement should have been concluded before the declaration of a state of war between Brazil and the German Empire. After this latter condition was recognized and proclaimed, therefore, the Foreign Office set forth these facts in a note of the 30th of November, addressed to the British Legation, the essential features of which are herewith reproduced.

This agreement, made before the declaration of a state of war between Brazil and the German Empire, is, for that reason, virtually void since it would be absurd to maintain it when the Brazilian Government has the greatest desire to supervise the acts of such firms and since it is so authorized to do by act of Congress. It would, therefore, not be proper for it to delegate its powers under the circumstances and in consequence of law 3393 of the 16th instant the Brazilian Government through the intervention of his excellency declares to His British Majesty, as a friend and ally, that it assumes as its duty the supervision of enemy firms without distinction of nationality in all Brazilian territory and that there is, therefore, no necessity for a function to be exercised here parallel to that of the Government and sovereignty of Brazil.

In the same terms and on the same date with the necessary modifications other notes were addressed to the Portuguese Embassy, and to the French, Italian and Japanese Legations.

The merchant ships anchored in Brazilian ports, the utilization of which was authorized by the national Congress and which have been under the control of the Brazilian Government since July 17, 1917, have been turned over to the Brazilian Lloyd with the idea of their being employed as the necessities of navigation and commerce should determine. The Brazilian Government received the courteous appeals which were directed to it from the French and United States Governments urging that a contract be entered into for the better utilization of these ships of the Brazilian Lloyd. The Ministry of Foreign Relations, with my authorization, took up the matter of the political and diplomatic negotiations necessary. The Legations concerned were advised that Brazil would show no preference between the Allied nations which were contesting for the control of the ships; neither would she alienate the ships which were taken in reprisal for the tonnage which the enemy had destroyed. When the conditions of the understanding had been decided upon, the United States Government withdrew in favor of France and the agreement solicited was made with the Government of the latter country. The ship transaction was thereupon transferred to the Ministry of Fazenda which fixed the clauses and conditions of the agreement after a study of their financial aspects. When a report had been submitted upon this matter I did not hesitate to approve the arrangement, being certain that the said agreement operated to the advantage, not only of Brazil, but of France and of the other Allied nations in whose name in all stages of the negotiations the latter country declared herself to be acting.

AUTHORIZATION TO FOREIGN VESSELS TO ENGAGE IN COASTWISE TRAFFIC IN BRAZILIAN WATERS

File No. 832.801/7

The Ambassador in Brazil (Morgan) to the Secretary of State

No. 1119

RIO DE JANEIRO, January 19, 1918.

SIR: I have the honor to report that the *Official Gazette* of Rio de Janeiro, of January 16, published the text of a circular from the Brazilian Minister of Finance stating that the war has dislocated ocean transportation and prejudiced national commerce. Under the

authority conferred by letter "f", Article 5, of decree No. 10,524, of the 23d of October, 1913, which provided new regulations for the merchant marine and coastwise trade, it has therefore been decided that during the continuation of the war foreign vessels shall be allowed to engage in coastwise traffic for the purpose of transporting cargoes between Brazilian ports.

The circular contained, in thirty-two clauses, the regulations which govern this new rule. An English translation of the text is enclosed herewith.¹

I have [etc.]

EDWIN V. MORGAN

¹ Not printed.

CHINA

POLITICAL AFFAIRS¹

Conciliatory Policy of Acting President Feng Kuo-chang; Opposition of Northern Military Elements; Participation in the World War; Resignation of Sun Yat Sen as Generalissimo of Southern Military Government; Reorganization of Southern Military Government; Looting in the Province of Hunan by Northern and Southern Troops; Joint Protest of the American, British, and Japanese Ministers; Election of Hsü Shih-ch'ang as President; Peace Proposals; Encouragement by the American, British, French, Italian, and Japanese Governments to Settle Difficulties

File No. 893.00/2767

The Minister in China (Reinsch) to the Secretary of State

[Telegram—Extracts]

PEKING, February 11, 1918, 7 p. m.

There is no change in the situation. The position of President Feng has grown weaker. There are indications of growing desire on the part of Tuan faction to displace Feng in favor of Hsü Shih-ch'ang. Arrival of money borrowed and arms bought from Japanese causes a show of resolution, but the tuchuns' activity so far confined to demanding more public money. The pardon of Liang Shih-yi and associates gives rise to talk of their early return to power with Tuan and Japanese support. None of these possibilities are acceptable to the South. Governor Li Shun is developing his national policy, being drawn more towards the South. The Southern leaders planning confederate commission for bringing about greater unity in the movement for constitutional government. The attitude of sections is shown by the fact that while diplomatic arbitration was recently suggested to me by influential Northerners the South is willing to arbitrate provided the Parliament is recalled, while Li Shun does not consider the time favorable for arbitration. This would seem to indicate that he hopes to rid China of the militarists. . . .

It is indispensable that the Allies should give some attention to China in order to avoid surprises and dangers. The South will not accept militarist rule or restoration monarchy. Such steps would permanently divide China. The Allies can strengthen their cause and avoid disastrous consequences which continued inattention would inevitably entail. What has been done so far taken by itself is bad. Postponement of Boxer indemnity no real benefit without doing

¹ Continued from *Foreign Relations*, 1917, pp. 46–113.

justice to China in granting 5 per cent effective customs duties . . . There is no constructive action, no systematic efforts to mobilize the resources of China in shipbuilding, iron, food, military forces. The Allies might appoint a joint commission to assist China in constructive work for the common purpose. The American Government itself can do a great deal. For one thing it is of great importance that the American Government should announce its readiness to support the European military expedition as soon as internal unity in China shall have been restored and national action made possible. Conditions can be so arranged as to give the enterprise an unquestionable national character gained through recruitment of officers and men *pro rata* from all provinces. It is desirable also that the American Government should encourage other national constructive work such as railways, shipbuilding, not as peace enterprise, but a mobilization for assistance in war and most effective insurance against China becoming a source of danger to Allies. Special attention to the Far Eastern situation is urgently required. . . .

REINSCH

File No. 893.00/2780

The Minister in China (Reinsch) to the Secretary of State

[Extracts]

No. 1905

PEKING, February 12, 1918.

SIR: I have the honor to report on the general political situation in China as it has developed since the first of the year.

The contrast between the conciliatory policy of Acting President Feng and the desire for military gestures on the part of the Northern tuchuns, reported on in my No. 1788 of December 7, 1917,¹ has become more marked as time has passed. While unity of action is outwardly maintained, there is known to be deep-seated hostility between the militarists under General Tuan and the followers of the Acting President. It is to be regretted that no way was found for taking General Tuan Ch'i-jui out of politics by giving him a dignified national mission abroad in connection with war action. As it is, General Tuan has again been completely identified with the Northern militarists, particularly the Anhui faction, and bitter feeling has been aroused against him in the center and south of China.

Notwithstanding their professed ardent desire for military action against the South, the Northern tuchuns have thus far been satisfied with making continuous exorbitant demands for money on the Peking Government, the funds supposedly to be expended for military preparation. In Hunan, their forces have retired from Changsha to Wuchang at the cost of about twelve million dollars and of a great deal of suffering to the country through which these military coolies passed.

The Acting President, while apparently desirous to have a conciliation with the South and always to leave the door open for peace-

¹ Not printed.

ful settlement, has been weak in that he has not been able to formulate and carry out a clear, definite policy. When the so-called National Council was first convoked,¹ it might easily have been possible to get the country to agree to a new election law for Parliament, if a definite time for such election had been fixed. Instead of that, General Feng gave the impression that he was supporting the National Council, and it was believed that he would not oppose an attempt to have it displace Parliament, an action most distasteful to the South. The Acting President's traditional compromising tactics were not adequate to the present situation.

The crisis seemed to be impending when the President, on January 25, suddenly decided to leave Peking. It was formally given out that he was undertaking an inspection trip, with a view to persuade the "militant" tuchuns to take more active and concerted measures against the South. This is perhaps the most convoluted inversion that Chinese politics has yet produced; that the "militant" tuchuns, supposedly champing at their bits, should need presidential persuasion, and that it should be the pacifist President who started on such an errand is at first sight reminiscent of *Alice in Wonderland*, and yet this explanation of the reasons for the President's trip was solemnly given out to the diplomats by the Minister of Foreign Affairs.

The fact was that neither the President nor the tuchuns really wanted to fight. The tuchuns were making quantities of money without any danger to themselves. Both, however, were in danger of losing face. Chinese politics has become more and more theatrical, and as the figures on the stage stamp about and try to make a deep impression by terrifying gestures, so in the minds of both the President and the tuchuns, a terrifying gesture against the South was needed, and it was hoped that this might do the business. From the point of view of the Acting President, who, after all, was supposedly at the head of the whole country, the action of the South involved a certain loss of face; the South, while willing to talk peace, was rather uncompromising with respect to the conditions. So it is possible that the President honestly believed that if a military show could be made in Hunan, a compromise might be more readily reached. This at any rate was the inner explanation which was given of his policy. As for the tuchuns, they also desired a terrifying gesture against the South, but they distrusted the President; before beginning to gesture, they demanded that he should issue a mandate declaring public hostilities in force against the South. After that they would act. So it might be understood that the President took his journey of inspection for the purpose of making the tuchuns agree to the terrifying show of military action against the South without first demanding the President to issue a mandate of absolute hostility, which was against his underlying instinct of compromise.

The President started on his trip, got as far as Peng-pu, where he met General Ni Ssu-ch'ung, the most notorious of the "militant" tuchuns, and returned to Peking. It was given out that his trip had been eminently successful, that he had persuaded the tuchuns to take common action, and that even Li Shun had promised to send a brigade against the Hunanese. Mandates have been issued, but

¹ See *Foreign Relations*, 1917, p. 106.

so far there has been no result except further appropriations of public moneys to the "militants."

The early return of the President is, however, not believed by any one to be in accordance with his original program. It is believed that his real objective was Nanking, where, in touch with Military Governor Li Shun, he might hold the balance of power between the North and the South. The Consul at Nanking and Mr. E. M. Lamb, the representative of the naval attaché, report from the accounts of eyewitnesses that Ni Ssu-ch'ung met the Acting President at Peng-pu, accompanied by the larger part of his military forces. He is said to have addressed the Acting President in the strongest language, and to have laid before him cogent reasons for returning immediately to Peking. The President had with him at the time only the military guard he was carrying on his own train. He accepted the suggestion of Ni Ssu-ch'ung.

At the present time the position of the Acting President in Peking is weak and full of embarrassment. Rumors of all kinds abound, including the perennial one of an impending restoration. From such information as I have from influential Chinese in close touch with the situation, it would appear that the faction which is grouped about General Tuan Ch'i-jui and which uses his name and reputation as their banner, is thinking seriously of ousting General Feng Kuochang from his position, and by an act of the so-called National Assembly, placing Hsü Shih-ch'ang in his place. Liang Shih-yi, Chow Tze-chi, and Chu Ch'i-ch'ien, with their minor associates, have just been pardoned. Liang Shih-yi is returning from a prolonged stay in Japan. It is most likely that the Tuan faction is attempting to make a combination with this so-called communications clique, counting on the ability of these men and the support which they supposedly might get from Japan, to strengthen the Tuan faction sufficiently to enable it to hold its own against the South. Through Ts'aò Ju-lin and General Tuan Chih-kwei, the Minister of War, Japanese support had already previously been arranged in the matter of the ten-million-yen loan and the furnishing of large quantities of arms. The extent of the support given and to be given by the Japanese Government to the Tuan fact [faction?] is, as will be known to you, one of the burning issues in Japanese politics at present.

Considered from the point of view of government and authority, the present Cabinet is the weakest which has existed during the last five years, at least. The Cabinet is weak through having no policy and through being divided on account of the deep-seated incompatibility of its component parts. The orders of the Government carry no authority beyond Peking. On the financial side, the weakness is most pitiable, and is due to the exhaustion of the treasury through the demands of the "militant" tuchuns. Notwithstanding the large proceeds of the remitted Boxer indemnity, the Government banks are still in a state of approaching bankruptcy. The Minister of Finance, Wang K'o-min, . . . has not only been unable to carry on the finances of the country out of the abundant income of the customs and the salt revenue, but he has borrowed large sums from Japanese sources, in some cases with the mortgaging of specific valuable property and rights, in all cases to the injury of Chinese financial independence.

Turning now to the Southern provinces, aside from the military successes of General T'an Hao-min in driving the Northern troops from Changsha and Yochow to the north, the most important development is an attempt to create a confederated council or commission for the constitutionalist provinces. The men who are now mentioned as likely to compose this council are the following: military, T'ang Chi-yao, Cheng Pi-kwang, and Lu Yung-t'ing; foreign affairs, Wu Ting-fang; finances, Tong Shao-yi; and peace negotiations, Ts'en Ch'un-hsüan. In connection with this proposal, I have the honor to enclose Canton's despatch No. 62 of January 21, 1918.¹

The project would involve the elimination of Sun Yat Sen from primary influence. In the words of Mr. C. C. Wu, the object of the leaders of this movement is not permanent separation of North and South, but an effort to bring about more complete cooperation and unity in the movement for constitutional government. The Southern leaders have protested to Japan against loans to the Peking Government. They are also planning to make representations with respect to the use of the customs and salt revenues, demanding assurances that these funds will not be used for factional militarist support. The chief difficulty with the Southern movement thus far has been lack of unity. The suspicion has been that while having the advantage of the North in standing for an important principle of public policy—constitutionalism and representative government—yet the individual military leaders of the South were probably animated by motives similar to those of the North, particularly the desire to maintain and fortify their own personal positions. In fact, all of China is in danger of disintegrating into feudalities under military men who do not even have the merit that they can fight but who do their work through crooked intrigue and corruption, hiring coolie forces as a matter of face and gain to themselves. If this spirit can be overcome in the South through encouragement for loyal cooperation in a common cause, the movement will gain enormously in strength. In fact any group of permanent leaders who would be bound together by loyalty to each other and a truly public motive, would be irresistible in China. As it is, each man stands alone, fights for his life, wealth, and official existence.

The importance of Nanking as a pivotal point in Chinese politics has become even greater than before. Military Governor Li Shun is the youngest of the tuchuns. He has therefore been accessible to ideas of national action which the older men are too [conservative] to receive. He too has to fight for his authority over his troops and provinces, because every possible means is brought to bear to undermine it. He is stigmatized as too ambitious for his youth, as inexperienced, and as desirous of playing his own game. But to all observers who stand outside of the intrigues of Chinese politics, he appears to be a man who has caught sight of the possibility of a national policy which the others had not even conceived. He belongs to the so-called Chihli group of the Northern military party, of which General Feng Kuo-chang and General Ts'ao K'un, the tuchun of Chihli Province, are also members. But he has of late tried more and more to disengage himself from the intrigues of the Northern military parties and to assume the position of a mediator between the North and the South, trying to develop a national policy to

¹ Not printed.

which they could all rally. The dirtiest methods of intrigue have been used against him in an effort to undermine him, particularly through buying his subordinate commanders. The only action that a "militant" tuchun is formidable in, is bribery; in this bloodless underground warfare they are thoroughly at home.

Since the return of Acting President Feng to Peking, the break between General Li Shun and the Northern tuchuns has become almost open, although it was announced, as reported above, that Li Shun had agreed to furnish a brigade for the expedition against the South. From information from various reliable sources, I am convinced that General Li Shun has now made up his mind that if there is to be any fighting it is not to be against the South, but against individual corrupt militarists who continue to disturb the peace of the country for selfish motives. With this in view, General Li Shun recently sent a circular telegram to all the military governors, a copy of which is herewith enclosed.¹ The telegram puts the double inquiry as to whether the recipient desires to fight, and, if so, for what cause or principle: "If there is going to be civil war, that war should be waged for a just cause and with a definite and clear objective. . . . In the past both peace and war have been made without purpose, without consideration for the country, and recklessly." General Li Shun through this telegram is attempting to arrive at a clear statement of the issue, and to isolate those who desire to continue the present confusion without public motives.

Another step which has been taken is an invitation on the part of the Kiangsu provincial assembly to all other provincial assemblies to send delegates to Nanking in order to discuss the possibility of national peace and concord. All but the Provinces of Anhui, Chihli, Honan and Sinkiang have already accepted this invitation. . . .

I have [etc.]

PAUL S. REINSCH

File No. 893.00/2774

The Chargé in China (Spencer) to the Secretary of State

[Telegram—Extract]

PEKING, March 3, 1918, 1 p. m.

It is believed by many Chinese that Chang Tso-lin, military governor at Mukden, is about to attempt restoration of the Emperor. Chang has brought several thousand troops south of the wall into Chihli Province against the orders of President Feng. . . .

SPENCER

File No. 893.00/2776

The Chargé in China (Spencer) to the Secretary of State

[Telegram]

PEKING, March 7, 1918, 10 a. m.

Chang Tso-lin's movement seems intended to force resignation of President Feng and place representative of Northern military party in his place. Restoration of Emperor improbable.

SPENCER

¹ Not printed.

File No. 893.00/2787

The Chargé in China (Spencer) to the Secretary of State

[Telegram]

PEKING, March 16, 1918, noon.

Present situation is that President Feng seemingly fully determined to resign and within a few days. The military clique plan to make Tuan Ch'i-jui Premier and also Acting President. Their present plan is to make Chang Tso-lin Governor of Chihli; Ni Shih-chung, Governor of Kiangsu, in place of Li Shun; Chang Huai-chih, Governor of Kiangsi, in place of Chen Kuang; Yuan Tso-kun, Governor of Hupeh, in place of Wang Chia-yuan; Chang Ching-yao, Governor of Hunan. Ts'ao K'un, the present Governor of Chihli, is reported to be angered at this program. He may possibly change sides and join Li Shun party. If the above is attempted, China will be hopelessly involved in civil war.

SPENCER

File No. 893.00/2838

The Minister in China (Reinsch) to the Secretary of State

[Extract]

No. 2018

PEKING, April 30, 1918.

SIR: I have the honor to submit the following report on the general political situation in China during the first quarter of 1918:

1. POLITICAL INFORMATION

A. DOMESTIC

(1) *Political observations and developments*

The conflict between the Southern and the Northern military leaders continues to be the principal matter of public concern in China. The Northern element, centered in Peking, has for its most active parts a group of military men who follow the lead of Gen. Tuan Ch'i-jui (Anhui party) and the more or less closely allied group of Northern militarists led by Acting President Feng Kuo-chang (Chihli party). In each of these groupings again are many personal rivalries and discordant aims. This predominance of personal aims and motives is even more marked among the Southern party. Aside from the civilian elements, led by Dr. Sun Yat Sen, whose influence has been declining, and Dr. Wu Ting-fang, there are a number of military leaders who cooperate against the North in a loose way but have not formed a unified, responsible organization. The result is that a definite statement of policies and aims by leaders, who would be responsible for the carrying out of any compromises arrived at, and who would have the actual power to carry out such compromises, is not to be obtained.

During the early part of the quarter, Acting President Feng Kuo-chang was still attempting to carry out his conciliation policy. The circumstances of his trip to the northern provinces have been reported

in my despatch No. 1905, of February 12, 1918; since then the Acting President has remained rather more in the background.

At the end of February there was engineered, with the cooperation of Maj. Gen. Hsü Shu-cheng, the principal follower and assistant of General Tuan, a movement of the troops of General Chang Tso-lin, military governor at Mukden, towards Peking. At the same time, these troops were supplied with arms and ammunition recently bought from Japan, which were seized by the troops at Chinwang-tao, the port where these materials were being landed. As subsequent events showed, the motive of this military movement was to force the reappointment of General Tuan Ch'i-jui to the premiership and to give active support to his policy of military action against the Southern forces in the Province of Hunan. As the appointment of General Tuan's assistant, Fu Liang-tso, to the governorship of that province, in 1916, had been made the chief point of resistance on the part of the Southerners until they had ousted General Fu, General Tuan's party considered the reoccupation of Hunan as essential in order to protect the authority and standing of their leader.

General Tuan Ch'i-jui assumed the office of Premier on March 23, 1918. There was no general remodeling of the Cabinet. Wang K'o-min, Minister of Finance, to whom the new Premier was particularly unfavorable, left office; Ts'ao Ju-lin, already Minister of Communications, assumed concurrently the headship of the Ministry of Finance, with the result that the two most important ministries were put in charge of the leader of the pro-Japanese party in the Government. The remaining changes in official positions were of minor importance.

Premier Tuan stood for the energetic prosecution of military action against the South. The troops of Chang Tso-lin were forwarded to Hunan. The Southern troops receded to the south beyond Changsha; meanwhile, internal disharmony in the Northern military party again became more pronounced. The so-called Chihli faction seemed to fear that the immediate followers of Tuan, under the leadership of General Hsü Shu-cheng, would entirely gain the upper hand. At the end of the quarter, notwithstanding the slight withdrawal of the Southern troops, the settlement of the internal difficulties of China had not been greatly advanced.

As a result of the political disorganization, conditions in the interior of many parts of China became very unsettled. While the main body of the population gives little attention to political matters and goes on in its normal work of industry, commerce, and agriculture, so that such a thing as general unrest does not occur, yet, the disorganization of the central authority, together with the incapacity of many of the military generals properly to control their own followers, leads to a great deal of local uneasiness and suffering. Not only was the peaceful population harassed by the advancing or retreating soldiery, but even in regions remote from the actual scene of combat, the soldiery was often unruly and extortionate in its demands on the civil population, while brigandry flourished in extensive regions.

In several cases foreigners were made to suffer in consequence of the conditions described above. Attacks were made by snipers along

the Yangtze River on both naval and merchant vessels of foreign nations, resulting in the case of the United States steamship *Monocacy* losing by death a naval gunner, and the slight wounding of two men of the crew. The captain of one of the British merchant steamers was killed. Five American citizens were kidnaped: three near the southwestern portion of Shantung, and two in the Province of Honan. The former were promptly released but one of the latter, an American railway engineer, remained in the hands of the bandits for six weeks. A ransom was demanded; finally the military cordon was drawn so closely around the bandits that the release of the captive was obtained. Three Japanese were kidnaped in Shantung Province. A British missionary was killed by robbers in the Province of Fukien. These instances show a dangerous weakening of the central authority.

(2) *Attitude toward the war*

The Chinese Government continued to manifest a complete willingness to cooperate with its associates in the war, and to take such measures as seem to be necessary for the protection and advancement of the common interests. It was only the difficulty of transportation which stood in the way of the sending of a Chinese military expedition to take part in the fighting on the western front. The Chinese Government had created a War Participation Bureau, at the head of which General Tuan Ch'i-jui was placed. This bureau considered all questions relating to the war and prepared plans for an active military participation. When through the internal difficulties in Russia and the making of a separate peace with Germany, the danger arose that German or Austrian prisoners of war might give trouble in Siberia, the Chinese Government took such military and other measures as seemed advisable in order to anticipate danger from that source.

B. FOREIGN

(1) *Relations with foreign countries*

The diplomatic relations of China are primarily determined by the fact that the war exists, and that China is a cobelligerent. The relation between China and her associates in the war has been uniformly friendly. No difficult or important questions have arisen between China and the European nations or the United States, diplomatic intercourse being confined to the settlement of routine matters. It is different with the concerns of China with her neighbor. The Japanese Government has chosen this time for an attempt to establish the ascendancy of Japanese influence in Chinese affairs. While any intention to interfere in Chinese domestic affairs has been officially disavowed, nevertheless a loan of fourteen million yen was made in January for the purpose of supplying the means for a large purchase of arms from Japan on the part of the Central Government. At the same time, however, relations were maintained with various provincial authorities in the North and the South, and many local loans were consummated, secured upon properties, concessions or taxes in the respective provinces. When a separate peace had been

concluded between Russia and Germany, negotiations were initiated by the Japanese Government with China, through the Chinese Minister at Tokyo, for the avowed purpose of devising a method for cooperation in any military action which might be taken in Manchuria and Siberia. An exchange of notes took place early in March in which the common interests of Japan and China with respect to the Siberian situation were stated to afford a ground for a more specific understanding with respect to the means of protecting the said common interests. Secret negotiations were carried on throughout March, without coming to any conclusion during the quarter. The fact that the negotiations were kept absolutely secret and surrounded with every possible protection to maintain their secrecy, did not make a good impression and led to many reports concerning demands advanced by the Japanese Government, which were probably in some instances exaggerated but which served to arouse great apprehension and considerable ill feeling among the Chinese public. Arrangements were completed for having Baron Sakatani, ex-Minister of Finance, a noted expert in financial matters, come to China, with a view of securing the appointment as adviser on matters of currency and finance.

In the Chinese Government there were several influences strongly favorable to Japan. General Tuan Ch'i-jui himself had in July 1917 been enabled to overthrow the monarchical *coup* of Chang Hsün with the aid of Japanese financial assistance. He had been made to feel quite thoroughly that the Japanese could either assist materially or raise formidable obstacles, according to whether they did or did not approve of any given public man or administration. He was therefore predisposed to conciliate the Japanese Government and to encourage active friendly relations with the Japanese. Ts'ao Ju-lin, the chief of the pro-Japanese party in China, as already stated, was placed at the head of the two important ministries of Communication and Finance. The Acting President seemed to rely greatly on his Japanese advisers. The avowed tendency of the Government was favorable to establishing closer relations with the neighboring country.

The decision of the Japanese Government to introduce a "civil administration" in what is now designated as the Shantung Railway Zone has aroused the greatest concern and apprehension among the Chinese. Under the arrangements with the German Government, no railway zone existed. The railway concession was indeed originally accompanied with the priority right to mine within a certain distance (thirty *li*) on each side of the railroad. This right of preference had, however, been relinquished by the German Government before the beginning of the war. The Japanese regulations for a civil administration establish a railway zone along the Shantung line and make it appurtenant in every branch of the administration to the Leased Territory of Kiaochow. The fact that the administrative regulations deal with such matters as taxation, construction of roads, forestry and mines make it appear that permanent administrative arrangements were aimed at. For this reason the strongest remonstrances were made by public bodies in Shantung and elsewhere in

China against the measure in question. The Japanese Government on its part declared that the measures were purely temporary, which statement failed to satisfy the Chinese Government or public, or to allay apprehension.

In connection with the entry of China upon the war the Governments of the associated belligerent powers gave to the Chinese Government the assurance of their assistance in securing an immediate arrangement under which the Chinese Government would be enabled to collect the 5 per cent effective customs duty, guaranteed under existing treaties. The valuations upon which the present collections are based were made in 1902; on account of the enormous increase in prices, the collections at present amount to only about one half of the percentage guaranteed under the treaties. In consequence of the above compromise a customs conference was convened at Shanghai early in January. It did not, however, succeed in even effectively beginning its work during the first quarter because no agreement as to the basis of valuation could be arrived at among the powers. The Japanese Government insisted that the values of merchandise during the years 1912, 1913, 1914, 1915 and 1916 should be the basis of the new duty. On the part of the Chinese Government it was alleged that under this arrangement the effective 5 per cent duty guaranteed by the treaties would not be obtained.

(2) Attitude toward the United States and Americans

There was no change in the customary friendly attitude toward America. However, the exchange of notes between the Secretary of State and Viscount Ishii was quite generally interpreted as indicating a withdrawal of the American Government, in favor of Japan, from any desire to exercise any influence in Chinese affairs. The term used in Chinese to translate the expression "special interests," makes that expression much stronger than it is in the English language; it implies in fact the idea of a special or predominant position. The popular conception, even among officials, was therefore that the United States had agreed to give to Japan a free hand with respect to everything related to China. While a different view concerning the note is held by a few public men who are especially conversant with foreign affairs, the impression produced upon the majority—which was further encouraged by the current Japanese interpretation and by the fact that the Japanese Legation lost no time in acquainting the Chinese Government with the existence of the note before its publication—was that the American Government had no desire to interest itself in Chinese affairs, and that on their part the Chinese would therefore be wise to look to other quarters for tolerance and support. The result was one rather of disappointment than of indignation against the United States. While well-informed leading men were convinced that no material change had taken place in the policy or attitude of the American Government, yet it was impossible for them to counteract the popular understanding which had arisen.

I have [etc.]

PAUL S. REINSCH

File No. 893.00/2859½

The Minister in China (Reinsch) to the Secretary of State

No. 2079

PEKING, June 5, 1918.

SIR: In connection with my despatch No. 2071, of May 24,¹ I now have the honor to forward a copy of the authoritative text of the measure for the organization of the Southern Military Government, which was passed, in its final form, by the "Extraordinary Parliament" in Canton, on May 18, 1918.

There is also herewith enclosed despatch No. 74, dated April 30,¹ from the Consul General at Canton, dealing with the situation of the Military Government, in which it is pointed out that the condition in the South, due to rivalries among the militarists, has become almost chaotic.

Copies of the letter of resignation of Dr. Sun Yat-sen from the position of generalissimo of the Military Government, as published in the Peking *Leader*, May 26, are also enclosed. Dr. Sun has since then expressed himself as most discouraged with the actions and methods of the militarists both in the North and in the South; on the other hand, it may be stated that his own political action, while apparently inspired by liberal ideas, has not been characterized by practical wisdom. On all sides there has been a want of efficient leadership.

I have [etc.]

PAUL S. REINSCH

[Enclosure 1]

*Articles of reorganization of the Southern Military Government, May 18, 1918*INTELLIGENCE BUREAU,
CANTON, May 23, 1918.

The National Assembly in extraordinary session in Canton has finally, on May 18, 1918, passed the long discussed bill providing for the reorganization of the Military Government established here last August.

The articles of reorganization, when roughly translated, follow:

ARTICLE 1. The Military Government of the Republic of China is founded upon the confederation of the constitutionalist provinces and shall, during the incapability of the National Assembly and the President to perform their functions, and in accordance with the articles of this act, exercise the executive powers of the Republic of China.

ART. 2. The powers of the Military Government shall be as follows: (1) to conclude peace and declare war; (2) to transact foreign affairs and make contracts and treaties; (3) to supervise common finance; (4) to decide disputes between provinces; (5) to recognize the admission of armies from constitutional provinces; and (6) to deliberate on the preparation and general plan of the war. All contracts or agreements involving a financial burden on the people, the issue of domestic or foreign bonds, and the offer of terms of peace shall be approved or ratified by the National Assembly in extraordinary session.

ART. 3. The powers of the Military Government shall be executed by an administrative council consisting of seven directors elected by the National Assembly in extraordinary session. All meetings of the council shall be presided over by a chairman chosen by and among the directors. Each of the constitutionalist provinces and each of the recognized constitutionalist armies may send a delegate to the council for participation in the deliberation of affairs mentioned in sections 1, 2, 4, and 6 of Article 2.

¹ Not printed.

ART. 4. The Military Government may establish the ministries of foreign affairs, finance, war, general staff, navy, interior, communications, and justice, all under the immediate direction of the administrative council.

ART. 5. Each ministry, unless directly controlled by a director of the administrative council, may have a minister.

ART. 6. All ministers shall be appointed by the administrative council in regular session assembled. During the inability of a director to function, he may appoint a minister to act in his stead.

ART. 7. A director of the administrative council may hold other offices.

ART. 8. All documents of the administrative council shall be jointly signed for promulgation by the directors.

ART. 9. The internal subordinate bureau of the administrative council shall be organized by a separate law.

ART. 10. The powers and functions of the governments of the constitutionalist provinces shall continue as hitherto. But those organs which are subordinate to the Peking Government and which cannot be directly controlled by the provinces may be controlled by the Military Government.

ART. 11. These articles shall be null and void when the National Assembly and the President are again capable of exercising their powers.

ART. 12. These articles shall come into force on their promulgation.

In accordance with the foregoing articles, the National Assembly in extraordinary session, on May 20, 1918, elected the following as directors of the administrative council:

Mr. Tong Shao-yi, ex-Premier of the Republic of China

General T'ang Chi-yao, Military Governor of Yunnan

Dr. Wu Ting-fang, Minister for Foreign Affairs and ex-Premier

Dr. Sun Yat-sen, first Provisional President of the Republic

Admiral Lin Pao-yi, Commander in Chief of the Chinese Navy

General Lu Jung-ting, Inspector General of Liang Kwang

Mr. Tsen Ch'un-hsüan, former Viceroy of Liang Kwang

[Enclosure 2]

Extract from the "Peking Leader"—Sun Yat-sen's letter of resignation

(From a correspondent)

CANTON, May 9 [sic], 1918.

Dr. Sun Yat-sen, Generalissimo of the Military Government of the Republic of China, tendered his resignation to the National Assembly in Extraordinary Session on 14th May. His letter to the leaders of the Southwest, roughly translated, reads as follows:

After the illegal dissolution of the National Assembly last June, and the unsuccessful attempt to restore the monarchy, there has been no lawful government in the Republic of China. Had Feng Kuo-chang and Tuan Chi-jui shown their regret for their past wrongs and, without being ambitious to advance individual power and interests, cancelled the illegal mandate, thus enabling the National Assembly to resume its regular session, no one would have accused them further. They, instead of following wise advice, persisted in employing the Northern troops to dominate the whole land, arousing animosity and conflict in Hunan and Szechuan, forcing a division of country and, at the same time, affording the armies of Kwangsi and Yunnan an opportunity to rise for local reasons, to declare independence with very little regard to upholding the fundamental law of the land.

I, unwilling to see the Constitution of the country violated without justification, at once called upon the leading citizens of the Republic in Shanghai and resolved to organize a government for the defence of the law, the officers and men of the Navy then there joining in the declaration and agreeing to move southward together. Upon the invitation of the Kwangtung Provincial Assembly, the members of the National Assembly came to Canton and, on August 31, 1917, or the sixth Year of the Republic, in Extraordinary Session, enacted a law organizing the Military Government of the Republic, electing me the Generalissimo; I, at the time, was not ignorant of my incompetence for such a heavy responsibility but, realizing the many difficulties facing the country, unwilling to shirk my duty

as a citizen, and also being one of those who have laboured for a republic, I felt I could not allow constitutionalism to die without coming to its rescue. Despite obstacles and difficulty, I have, since then, tried to promote the interest of the constitutional cause against militarism and rebellion, trying to acquaint the people at home and abroad with the aim of the Military Government, taking into consideration nothing of the possible success or apparent failure as long as the spirit of constitutionalism is maintained.

Since this was done, the Provinces of Kwangtung, Kwangsi, Yunnan, Kweichow, Hunan, and Szechuan have each severally or individually declared their allegiance to the constitutional movement and accepted the reconvocation of the National Assembly as the common cause of struggle, subordinating local differences to the national issue. The ability of the Military Government, an institution at first without an inch of territory, in rallying six provinces under its sphere of influence, besides many others showing sympathy with us, while it cannot be called a success, may be numbered as one of its achievements at this critical moment under adverse circumstances.

Of the many dangers at present facing our country, the struggle of the militarists for supremacy is the greatest. This danger is not confined to either the North or the South. Many of the officials of the so-called constitutionalist provinces have not been wholly willing to submit to law and public opinion and most of the officials elect of the Military Government have not seen fit to assume their offices. They have not shown the desired respect and obedience to the National Assembly in Extraordinary Session as they should. This lack of whole-hearted internal cooperation has rendered outside recognition impossible. I have almost exhausted my energy in calling the attention of the provinces to this incoherent situation: and only those who are associating with me in this effort have appreciated my object, while many outsiders are still wondering about my purpose.

The question of one's outgoing or incoming is but a slight matter when compared with the vital importance of the preservation or the destruction of our country. I have suffered abuse and insult and have borne the present responsibility with patience until this day, doing everything necessary all this time to secure the deserved respect and reverence for the National Assembly in Extraordinary Session. The recent fall of Yochow and Changsha seemed to have helped to indicate the weakness of a divided camp, hastened the realization of a more united organ of administration, and compelled the obedience to the National Assembly in Extraordinary Session as an essence to constitutionalism. The willingness to come together now is not too late to fulfil the hope which I have exerted my full strength to realize. Moreover, I have caused to be appropriated from the salt revenue funds to enable the National Assembly soon to resume regular sessions on June 12 next, an act completing my duty towards this institution, to enable it to reconvene. Now the National Assembly in Extraordinary Session has acceded to the demands of the provinces and has amended the law to reorganize the Military Government which should henceforth receive full support from all so as to make the righteous cause of constitutionalism a success and give the country blessing and happiness.

Labouring almost as an individual without men or arms, I, therefore, have not been able to do more than what I have done, but, at the same time, I do not feel I have to apologize to the nation. As an individual citizen henceforth, I shall continue to do my duty towards my country. In these words, I forward my resignation as the Generalissimo to the National Assembly in Extraordinary Session.

File No. 893.00/2862

The Minister in China (Reinsch) to the Secretary of State

No. 2082

PEKING, June 5, 1918.

SIR: I have the honor to report that by reason of the cruel conduct of the troops in Hunan Province, as more fully reported in the despatches from Hunan, forwarded with my No. 2083, and in view

of the incidental danger to foreign life and property, a large number of representative American and British residents of Changsha addressed a petition to the British and American Ministers asking that the Chinese military authorities be reminded of their obligation to extend full protection to foreign property and life.

In an informal conversation with the British Minister and with the Japanese Minister, the latter having also received alarming reports from his Consul at Changsha, I suggested that the Chinese Government be addressed in a joint note declaring that "the personal and individual responsibility of the commanding officers for any injury which may befall foreign residents as a result of the lack of proper control over their troops will be insisted upon by our Governments." My colleagues agreed to this proposal and on May 29 a joint note was dispatched to the Minister for Foreign Affairs, a copy of which is enclosed herewith.

In conversation with the Minister for Foreign Affairs on May 29, I also took pains to emphasize the fact that the remissness of certain of the military commanders in allowing promiscuous looting and other outrages was being observed with decided disapproval, and that aside from the general responsibility of the Chinese Government for injuries which might result to the foreign residents the personal and individual responsibility of the commanders ought to be emphatically brought to their attention. The Minister for Foreign Affairs agreed that this should be done.

At the time when the reports from Changsha indicated the imminence of special danger, about the middle of May, I advised Admiral Knight that it would be desirable to send, if possible, two gunboats to Changsha. The Admiral gave orders to this effect but on account of the accident to the *Palos*, only one could proceed to Changsha. Fortunately the situation has since somewhat improved.

I have [etc.]

PAUL S. REINSCH

[Enclosure]

Joint note from the American, British, and Japanese Ministers in China to the Chinese Minister for Foreign Affairs (Lu Cheng-hsiang)

PEKING, May 29, 1918.

EXCELLENCY: As the wanton and barbarous conduct towards the civil population, of which the troops in Hunan have been guilty, has unfortunately already involved incidental injury to foreigners in their person and property and as if outrageous conduct of this kind is permitted to continue, there is great danger that more serious injury will be suffered by foreign residents, it is incumbent upon us to bring to your excellency's attention the urgent need that the Central Government should in peremptory terms inform the Military Governor of Hunan and the other generals there in command that they will be held individually and personally responsible for any injury which may befall foreign residents as a result of the lack of proper control over their troops. This personal and individual responsibility of the commanding officers will be insisted upon by our Governments as a part of the general responsibility of your excellency's Government for any injuries to foreign residents.

The present remonstrance is occasioned by the fact that no effective attempt to protect foreign properties from looting was made by the commanders of the troops concerned in these outrages and when his responsibility for the conduct of the Government troops was brought to the attention of the Military Governor of Changsha, he stated that he could not control the soldiers of other generals. For this reason it is necessary that the Military Governor himself,

whose troops are known to have been guilty of great excesses, as well as the other generals in command, should be emphatically put in mind of their responsibility; but also that any general occupying the position of military governor of a province shall not be allowed to evade complete responsibility on the plea that he can not control any of the Government troops within that province. The alternative to a failure or inability to control under such circumstances is plain. The example of more than one general in the province has shown that it is possible even under the conditions there prevailing to exercise a strict control over troops. The laudable energy and strong character of such commanders, through whose conduct the safety of foreign residents is guaranteed, has been duly noted.

We avail [etc.]

[File copy not signed]

File No. 893.00/2860

The Minister in China (Reinsch) to the Secretary of State

No. 2083

PEKING, June 5, 1918.

SIR: I have the honor to transmit copies of despatches on political conditions in the Provinces of Fukien, Hunan and Szechuan as follows:¹ despatch from Amoy, No. 116; despatches from Changsha, Nos. 266, 267, 269, 281, 286, 288; despatches from Chungking, Nos. 135, 154, April 1, April 6, April 25; despatch from Swatow, No. 52.

The behavior of the troops under both the Northern and Southern generals in the Province of Hunan has been cruel and barbarous, as appears from the reports made by the Consul at Changsha. The looting of Liling was a particularly barbarous outrage. Incidental danger to the safety of foreign residents, consequent upon the customary behavior of the troops, led to the joint protest and warning by the British, Japanese, and American Ministers, reported in my No. 2082.

Further illustrating the conditions in the provinces directly affected, as well as in those adjoining, there are herewith enclosed copies of despatches Nos. 555, 615 and 632 from the Consul General at Hankow;² an article on the financial situation in Hunan, from the Peking *Leader* of May 19;² and two articles on the organized lawlessness, brigandage and kidnaping which prevail particularly in Honan and Shantung, taken from the Peking *Leader* of April 20 and April 27.²

From the political point of view, the fighting in Hunan Province is not likely to have any decisive influence. There are now several generals, such as Wu P'ei-fu and Feng Yü-hsiang, who not only exercise adequate control over their soldiers but also act on the principle that the business of the soldiers is to fight, at times when hostilities are going on; but these leaders have not sufficient forces at their command to exercise a decisive influence. The majority of the military leaders seem to be intent rather upon saving their face and making money than upon carrying out a military campaign which would be decisive in its effect. For this reason the military action in Hunan, with all its terrible byplays, is only one of the many complex elements of the present Chinese political situation.

I have [etc.]

PAUL S. REINSCH

¹ Not printed, except No. 281 from Changsha.

² Not printed.

[Enclosure]

The Consul at Changsha (Johnson) to the Minister in China (Reinsch)

No. 281

CHANGSHA, May 16, 1918.

Sir: Supplementing previous communications on the subject of conditions in Hunan Province I have the honor to forward herewith an account of the happening at Liling which lead up to the looting of mission property at that place. This account was prepared for me by Dr. Niebel at my request. It will give the Legation an idea of the situation here. I need only add that the foreign community are very much wrought up over the whole situation and are anxious as to the results. I have found Military Governor Chang Ching-yao ready to make promises but slow to do anything. I find it very difficult to get him to do anything as a matter of fact. I am sure that he could make the situation better if he would exert himself.

It seems to be true that Northern soldiers became infuriated at the treatment given them by the country people and the Southern soldiers at Liling and in its neighborhood. It even appears that some of the Southern soldiers fired upon Northern troops from one of the unoccupied mission compounds thus leading to the idea that the missionaries were implicated in the matter. But the missionaries were not to blame for this. They were at the mercy of an uncontrolled band of soldiery.

The Ssu Ling referred to by Dr. Niebel, who took up his headquarters in Dr. Niebel's house, was General Chang Ching-yü, so I am told, and a near relative of the military governor.

I am dispatching to the Legation to-day a telegram quoting from a petition which is being drawn up by the foreign community describing the situation and asking the Legations to approach the Central Government and secure from it adequate assurances of protection for foreign life and property.

I have [etc.]

N. T. JOHNSON

[Subenclosure]

Report of Doctor Niebel on the Liling troubles

May 15, 1918.

Ever since the trouble between the North and South began last fall, Liling has been one of the points to be constantly occupied by one side or the other in the unending retreats and advances of the two parties. Of course, this meant a big drain on the food supply and resources of the place besides a constant disturbance of economic conditions. With each evacuation and reoccupation the number of available coolies decreased, food became more scarce, the temper of the troops more irritable and the strain greater. Of course, the number of wounded soldiers increased and the policy we adopted of caring for the Northerners and Southerners impartially and placing them side by side in our hospital helped to keep us on good terms with both sides and prevent antagonism from either by rumors or favoritism. There were several intervals of comparative quiet during the occupation of the Southerners but conditions grew worse until the third week in April, the climax drew near.

At this time numbers of Northern wounded began coming in from Tsingshish and beyond. Reports were that the Southerners were defeated and on the retreat to Kuangtung. Wednesday, April 24, Anhui troops commenced pouring into the city. We had trouble preventing the complete overcrowding of the hospital by the wounded, though many officers simply wanted dressings saying they were leaving immediately. Five Red Cross men and one doctor sought refuge with us and we permitted them to stay to help with the wounded. Shantung troops also arrived, and although footsore were most anxious to hurry on.

On Friday and Saturday the soldiers seized citizens when possible, looted and killed some. The attitude towards foreigners became more threatening so that guards were necessary in going from one compound to another. One soldier struck Mr. Knecht, and another threatened him with a gun. The troops were unable to get away on the train because, according to reports, the officers wished to prevent the retreat. The soldiers circulated the story that the foreigners had spoiled the engines and cut the telegraph wires, so that retreat or communication with reinforcements was impossible. This aggravated antiforeign feeling and the general temper of the troops. The citizens seeking

refuge in the church compound increased in number until 700 women and children had been admitted. Men were refused entrance. Proclamations had been put up by soldiers ordering the killing of citizens on the street after 7 p. m. By 9 o'clock a general loot began and we could hear the crash of doors and the cries of women and children. Constant attempts were made to break in the compound doors, but the guards there were sufficient to hold them. About 10.30 a systematic firing of the main business section and the big bridge connecting the North and South cities began. All the shops on the chief business streets were destroyed within one *li* of the hospital compound at one end, and within 300 feet of the church compound at the other end. Only a favorable wind saved the church and the homes beside it. All night the fire raged in such intensity and brilliancy that a newspaper could be read by its light a mile away. Many of the troops had gone by midnight, but the next morning found several thousand who for some reason or other did not get away. About 8.30 in the morning about a *yin* of Southern troops arrived and dispersed over the city in small squads. Then of course the firing commenced, and the remaining Northerners in a panic dropped everything and fled in wild confusion. Many were killed in the attempt to escape. Stray bullets made our compounds unsafe, one bullet struck the windows of the hospital office, passing through the opposite wall. Others penetrated private rooms, barely missing patients within. All around our compounds the fighting was carried on until after a couple of hours the Northerners had all made an escape or suffered death. Then bands of Southerners demanded entrance to the hospital compound with a view to slaughtering the Northern wounded, but on reasoning with them and threatening report to their superior officers we were able to restrain them. By this time people dared to venture out to see the wreckage and havoc of the preceding night. Ruins, loot, and baggage dropped in flight made the streets a sight, bodies lay here and there. We suspected that there was a general order for indiscriminate slaughtering of citizens for in every building where soldiers had been quartered, murdered citizens were found. Later this supposition was confirmed by the admission of the Northern doctor seeking refuge in our compound. In front of one temple lay eight headless men, one of whom was a contractor who had built the hospital and was now putting up Dr. Dub's house, he was bearing our mission badge at the time of his seizure and had proof of absolute innocence of any political entanglements. With him were two of his chief workmen, likewise in possession of badges. We also found that several of our catechumens had met a like fate. In all over 100 men, women and children were murdered that night. One example of their brutality is a case of a woman brought to us with a bullet wound of the breasts. While nursing her baby she was ordered to submit to mistreatment, on refusal her baby was killed and she herself shot down.

During the days following the citizens returned to their homes, the Southerners continued to pour into Liling and then on to Chuchow in pursuit of the Northerners. Evidently fighting was lively, for the wounded were daily brought to us in large numbers. The hospital and two adjacent temples, together with surrounding homes, were filled in several days until about 1,000 wounded were under our care. This continued until Sunday morning, May 5, when the Southern General Wong came with the order that all patients at all able to leave were to get away at once towards Yuhsien, those who could, walked, and others were carried, so that only about 80 were left. The news of the retreat brought panic to the people and citizens fled in confusion, waiting for nothing. Monday the city was in the hands of the local rowdies, who looted the deserted houses everywhere. Tuesday morning this looting continued until towards noon a volley of shots announced the arrival of the Northerners. The temper of the troops was quickly manifested, for between this time and 4 o'clock in the afternoon, the church compound was insolently broken into, the foreign servants' quarters looted before the eyes of the foreigners and three shots fired at Mr. Lehman, one of which went through the upper third of his thigh. Our school compound, before which hung a big American flag, was entered and the school, its 80 boys, teachers and proctor, were robbed of everything. At the same time, while Mrs. Niebel was in labor, the hospital compound was broken into, but the Northern wounded saved us by pleading to be shot first before the hospital be harmed. Mr. Short's house was also forcibly entered and looted. Finally, towards evening we succeeded in getting into communication with an officer and through him procured a guard. The next day the situation was so threatening that Mr. Knecht and Mr. Lehman, together with the

women's and girls' schools' inmates and refugees, came to the hospital. That same day Mr. Lehman's house was burnt, and Mr. Knecht's looted and the deposit safe cracked. Then began a systematic burning of the whole city and the surrounding country. We sent two letters to the Ssu Ling requesting an interview, but he answered neither, and antiforeign talk was rife among the soldiers. The word was going around, "Why differentiate foreigners from Chinese? Treat them alike!" Also, "Kill the Hunanese!" was the cry everywhere. Our Northern patients advised us to escape at once, if possible. We wired to Anyuan for a train, but a refusal was the answer. Thursday night we slept with a guard of 50 men at our hospital compound. At the station Mr. Peebles (railway engineer) and his wife sat up all night with revolvers between them and a guard outside that might turn to be their betrayers. On Friday Mr. Knecht surrounded by a guard went in person to the Ssu Ling, and, with the aid of Mr. Peebles, succeeded in getting his promise for a train to leave immediately, and also in having his personal conduct back to the compound. On reaching the compound, he and his officers went to the doctor's house, ordered dinner and took possession. That afternoon all the sick and wounded, including the Southern patients, were carted safely to the railroad track and then while some of the soldiers started *A Perfect Day* on the Victrola, we carried Mrs. Niebel and the three days' old baby down the steps out on the verandah. The Ssu Ling informed me that he would probably use our house as his headquarters. Soon the procession of foreigners was off, together with the schoolboys and refugees. About 9 o'clock the train came and loading began. It was about 11 o'clock when all were on board and the train ready to take us to Changsha. The trip was made without event, thanks to the \$800 with which Mr. Peebles and ourselves softened the heart of the officer in charge of us, and thanks to the pleas of the Northern wounded.

How conditions are now we do not know. We are simply thankful that Providence has spared us and those dependent on us.

B. E. NIEBEL, M. D.

File No. 893.00/2868

The Minister in China (Reinsch) to the Secretary of State

[Extract]

No. 2140

PEKING, June 29, 1918.

SIR: I have the honor to submit the following report on the general political situation in China, during the second quarter of 1918:

1. POLITICAL INFORMATION

A. DOMESTIC

(1) Political observations and developments

The political situation in China is unchanged in its main outlines, although there has been development in details and the general progress of events has produced some important results and brought others out more clearly. Political interests have centered in the struggle between the Northern and the Southern parties, in the rivalries within the Northern military party itself, and in the election of a new parliament preparatory to the presidential election.

The so-called Communications Party (Chiaotung clique) began to participate more prominently in political affairs with the return from exile, in foreign parts and concessions, of the promonarchy leaders under Yuan Shih-k'ai, the chief of whom are Liang Shih-yi, Chow Tze-chi, and Chu Ch'i-ch'ien. Mr. Liang Shih-yi returned with his old prestige only slightly dimmed by the ill success of the monarchist

venture. It was believed that he had a definite plan for the reconciliation of the North and the South, and that he had made arrangements with the principal Southern leaders looking toward peace. However, while he was undoubtedly seeking a way to restore national unity, the expectation that he had a plan ready-made was unfounded. It is believed that he is working for the restoration of a civilian government, to which the military shall be in proper subordination. He therefore favors a reduction of the army and complete separation of military from civil affairs. In the question regarding Parliament he appeared to consider a new election under the old law the best solution, a conclusion in which a great many impartial persons concur. He however realized that the Government had so committed itself to a new parliament that it would be difficult for it to withdraw.

Notwithstanding the efforts made by all civilian leaders to bring about a condition favorable to compromise and settlement of the national difficulties, the military persisted in their desire to make a show of force against the South. The Premier, General Tuan Ch'i-jui, argues that any cessation of military action would be interpreted as weakness which would merely encourage the South to make more extravagant demands and to encroach further upon the Northern territory. In his view the question of authority must be settled once for all by imparting to the military movement against the South adequate force. For this purpose money is essential. If domestic revenue is insufficient, foreign loans must be resorted to. The sooner national unity is restored by force, the sooner will it be possible to repay these loans and to establish a system of sovereign control which will reform the army, protect the people and make the country prosperous. Being fully persuaded of the wisdom of this policy, in fact of its inevitableness, the Premier, encouraged by all of his followers, persisted in his course. It can not be overlooked that there exists in China a type of military generals who manipulate their forces from their *yamen*, and to whom the system of making war at home, with moderate risk of actual fighting, by methods which involve the use of money more than of bayonets, is a pecuniary business rather than a profession. Such leaders communicate their spirit to their soldiery, for whose acts they should be held responsible.

In the course of the month of April the Northern troops in Hunan Province were considerably reinforced, and some military action took place. The behavior of the troops under both the Northern and the Southern generals of the Province of Hunan in their action toward the civil population, was cruel and barbarous in an extreme degree. The looting of the city of Liling by Northern troops was a particularly outrageous instance of cruelty to their own nationals by a body of troops which had not distinguished themselves by warlike action in the field. It is, however, necessary to distinguish: there are several generals, such as for instance Generals Wu P'ei-fu and Feng Yü-hsiang, who not only exercise adequate control over their men, but also act on the principle that it is the business of soldiers to fight. The havoc wrought on the local population by the military in Hunan was so terrible that fully one fourth of the area of the province, and that the most populous part, was totally devastated. The fighting in Hunan fluctuated back and forth. In many instances

there is a strong suspicion that financial rather than military means were employed against the enemy, the soldiery recouping itself by robbing the civilian population. From a political point of view this fighting did not bring any decisive results, even locally, during the present quarter.

In the Province of Kwangtung, General Lung Chi-kwang, who had for a time emerged from his refuge on the island of Hainan and made an attempt to establish himself again on the mainland, was defeated and expelled. He went first to Hong Kong and then to Peking, where he attempted to raise a foreign loan of five million dollars on the mining resources of the Province of Kwangtung, of which he had lost control absolutely. Negotiations for this loan with Japanese interests are not yet entirely completed.

Among the Southern leaders there prevails great lack of harmony and of unity of action. There is the same desire of the military to control as is found in the North. Dr. Sun Yat-sen, who resigned from the position of generalissimo of the Military Government in May, expressed himself as most discouraged at the actions and methods of the militarists, both in the North and the South. On May 18, the old National Assembly, in extraordinary session at Canton, passed a bill providing for the reorganization of the so-called Military Government. Among those elected as directors of the administrative council under this measure were General Lu Jung-t'ing, the most prominent military commander of the South and inspector general of the two Kwang Provinces; Mr. Tong Shao-yi; Dr. Wu Ting-fang; Dr. Sun Yat-sen; General T'ang Chi-yao, military governor of Yunnan; and two others. It does not appear, however, that an organization capable of united action was thereby created.

In view of the slight progress made by the Northern forces of Hunan Province and elsewhere, a conference of the tuchuns was held at Tientsin during the second half of June. It was believed that this conference would be favorable to a peaceful settlement. Generals Ts'aok'un of Chihli, and Chang Huai-chih of Shantung, appeared particularly desirous for peace. They had been nominally in command of the forces in the Province of Hunan. The influence of the Chiaotung Party was also known to be favorable to peace. The military supporters of General Tuan Ch'i-jui, namely, General Ni Shih-ch'ung, General Chang Tso-lin of Fengtien, and particularly General Hsü Shu-cheng, the principal lieutenant of the Premier, were however strongly in favor of the continuance of military action. Their proposal was that the war should be carried into Kwangtung itself by means of a military expedition carried from Tientsin and other northern ports by sea. This was the plan suggested by General Lung Chi-kwang, who is anxious to recover his hold. Though necessarily requiring great sums of money, and though full of doubtful contingencies, this plan impressed the most radical militarists so favorably that they adopted it. Outside observers fear it is only another chance to waste public money.

The Acting President will undoubtedly continue to be favorable to a peaceful settlement. It was believed that General Ts'aok'un would follow the attitude of the Acting President with whom he was more or less allied. The tuchuns in the Yangtze Valley, particularly General Li Shun, of Kiangsu, were with the Acting President in

favoring peace. But General Ts'ao-k'un was won over by the Tuan party and concurred in favoring the Kwangtung expedition policy. He is a candidate for the position of Vice President. The question was whether he would associate himself with the party of General Feng Kuo-chang or with that of Tuan. He chose the latter alternative. This brings up the matter of the presidential election, which was closely bound up with the war question.

During the past two months elections have been going on for senators and members of the assembly in a new parliament under the election law passed in January last. These elections have been characterized by a great amount of bribery. The cost of getting a member elected to either house is quoted at between twenty thousand and thirty thousand dollars. There are some electorates not accessible to such methods, and a number of distinguished and respected men have been elected. On the whole, however, the public has taken so little interest in the election that it has been left to be manipulated as a game of the militarists and politicians. The competition has been chiefly between adherents of the Acting President, General Feng Kuo-chang, on the one hand, and the adherents of General Tuan Ch'i-jui on the other. Between the two stands the capitalist Chiaotung party, which, though friendly to General Tuan, prefers sovereign rule and favors ex-Premier Hsü Shih-ch'ang for the presidency. For the purpose of manipulating the elections a so-called Anfu Club was formed at Peking. It is at present claimed that the adherents of General Tuan and Hsü Shih-ch'ang will have a large majority, and that H. E. Hsü Shih-ch'ang will be elected, as General Tuan will withdraw in his favor. It is not yet absolutely certain whether enough provinces will participate in the election to assure a quorum in the New Parliament; nevertheless it is expected that a quorum will be present when the Parliament meets in August.

The old Parliament, however, still continues its existence in extraordinary session at Canton, to be sure, without a quorum, but living in the hope of gathering a quorum by the time of the presidential election. Some observers consider it possible that the old Parliament may elect General Feng Kuo-chang president. Others think that it may still more effectively try to embarrass the ultra-militarists by electing Hsü Shih-ch'ang. Thus far its intentions have, however, not crystallized. As noted above, General Ts'ao-k'un is a candidate for vice president, and in return for his support to the war policy will receive the votes of the militarist party.

Aside from the fact that groups exist around the Acting President, the Premier, and ex-Premier Hsü Shih-ch'ang, all the facts of the political situation are still in fluidity and new alignments may be formed at any time.

The political and military activities of the leaders of the Central Government and of the provincial tuchuns, described above, entailed a heavy expense, for which the normal revenues of the Government were not sufficient. Recourse was therefore taken to foreign loans, supplied by Japanese capitalists in return for valuable privileges.

Another extraordinary source of revenue was found in the transaction by which the Government purchased the opium stocks remaining in Shanghai from the opium combine there, with the purpose of

reselling them to a native syndicate or establishing a government monopoly service, administered similarly to the salt gabelle. The plans on this point have not been completely worked out at this date. It is, however, feared that whatever plan may be adopted it would involve not only the selling of the stocks now on hand but the possibility of introducing almost unlimited additional supplies, with the result of undoing to a large extent the good work accomplished during the last ten years in the reform of the opium vice. The blame for this deplorable result must be shared in equal parts by the Shanghai opium combine and the officials of the Chinese Government who took part in this action. The declaration that the opium will be sold only for medicinal purposes is not reassuring public apprehensions.

Notwithstanding the deplorable conditions of civil strife and official corruption which unfortunately have to be recorded, there has nevertheless been done in this period a great deal of constructive work. A new activity is the building of public highways, which has been pursued with energy in the region of Peking. When the pneumonic plague made its appearance in the northern part of Shansi Province, it was indeed at first allowed to spread through the incompetence and ignorance of the immediate local officials. But the Central Government, with the generous personal assistance of foreign medical men, organized a very efficient antiplague service, through which the spread of the epidemic into the populous plains of the northern provinces was prevented. Governor Yen, of Shansi, is among the high officials who deserve credit for this achievement. Through all the political unrest the work and industry of the people goes on quietly and normally, except in the unfortunate regions upon which the military curse has directly descended. It is for this reason, and on account of the law-abiding temper of the vast masses of the population, that China has not been thrown into an entirely intolerable condition.

(2) Attitude toward the war

The Chinese Government continues its complete willingness to cooperate with its associates in the present war within the limits of its means and opportunities. Suggestions made by the Allied powers with respect to the surveillance of enemy subjects resident in China, and for their eventual internment or deportation should it be necessary, were readily accepted and acted upon by the Chinese Government. The preparations in connection with the Siberian situation will be referred to elsewhere. However, while the attitude of the Chinese Government is actively friendly, the people in the provinces have not been made to realize sufficiently what participation in the war means, nor indeed what are the issues in this great contest. It is a great task to familiarize so vast a population, unaccustomed to think about political and foreign affairs, with the issues and the progress of the war. The efforts which are being made to make the Chinese people realize its meaning to them and to the world at large will have to be considerably reinforced if they are to achieve their object. The Chinese people have never distinguished between western foreigners, and it is difficult for them to realize just what this

war means. (An important Chinese public man, when questioned about this matter, recently stated: "There is one province in which the people pray for a German victory—that is Shantung." The man had been governor of that province himself.)

B. FOREIGN

(1) *Relations with foreign countries*

The secret negotiations between the Japanese and Chinese Governments, following upon the exchange of notes in March, reported in my last quarterly report, resulted in the signing of two agreements relating to military and naval cooperation. The agreements were signed by the special delegates on May 16 and 17 respectively, and formal ratifications were exchanged on May 30. The two agreements are almost alike in substance, with differences only in the application to the department concerned. The substantive provisions of the agreement are as follows:

The extension of enemy influence to the East makes it necessary for China and Japan to take concerted action to guard against the common enemy; Chinese officials shall aid Japanese troops in the military areas while the latter shall respect the sovereignty of China and local customs; the Japanese troops shall be withdrawn from Chinese territory as soon as military operations cease; if troops are to be dispatched outside of Chinese territory the two countries shall act jointly; matters relating to the military operations shall be decided by the military authorities of the two countries jointly, in accordance with the military strength of each country; both countries shall appoint deputies to arrange details of military cooperation; they shall facilitate transportation by land and water; they shall arrange for military railways, telegraph, and telephone lines which will be dismantled at the conclusion of military operations; they shall furnish each other with necessary military supplies and materials of all kinds, and carry out sanitary measures jointly; one country may lend to the other military experts; the intelligence agencies of the two countries shall exchange information and there shall be common secret passwords; the original treaty regarding the Chinese Eastern Railway shall be respected; the time for commencing actual military operations shall be decided by the highest military organs of the two countries; this agreement shall become null and void as soon as military operations against the common enemy come to an end.

It was recognized that the character of this agreement would be determined entirely by the subsequent action urged under it, both with respect to military operations and the furnishing of supplies, as well as to matters relating to communication. The Chinese Government believed that the agreement met the situation which had arisen on the Siberian front and that it did not contain anything derogatory to Chinese sovereignty. Criticism directed against the agreement dwelt on the absolute secrecy of the negotiations, the exclusion of the other Allies from participation therein, and the possibility that under the agreement far-reaching claims for intervention in Chinese affairs and control of Chinese resources might subsequently be introduced.

The situation on the Siberian front continues to give great concern to the Chinese Government. While the original apprehension sug-

gesting the possibility of a hostile movement controlled by Germany, to dominate Siberia and North Manchuria, was soon found to be exaggerated, still many troublesome questions arose with respect to the situation on the Chinese Eastern Railway and along the Chino-Siberian front. The embargo, which at the instance of some of the Allied powers had been placed on exports from China into Siberia, was in force at the beginning of the quarter. Shipments of food supplies had been permitted to certain regions where their proper disposal could be guaranteed. The Russian Minister considered that the danger of exportation of goods, particularly food supplies, from Siberia westward, so as to reach places under German control, was so slight that it need not weigh against the advantages of restoring normal conditions of supply and commerce in Siberia, which would greatly redound to the benefit of the Allies. The American Government took a similar view, specially with regard to foodstuffs. In the month of June the Chinese Government, acting upon its own motion, due to the representations made by Chinese merchants, as well as by Chinese residents in Siberia, removed the embargo. At this time, however, the railway transportation in Siberia was so disorganized that the measure did not have much practical effect. The export to Siberia of goods primarily useful in war would probably be protested against by several of the Allied Governments.

The Chinese Eastern Railway continued to be policed by Chinese troops. Its administration remained under the authorities which had originally, before the occurrence of the present troubles, been in charge under the Russo-Chinese treaty. The American Railway Commission to Russia, being entrusted with the function of general assistance to the Russian Railway System, was invited by General Horwath, the chief official of the Chinese Eastern Railway, to lend its aid in an advisory capacity on that line. A number of units of the commission were therefore placed along the railway in April.

When the forces of General Semenoff, operating between Manchuli and Kyranskaya, were forced to retreat in June, parts of them crossed into Chinese territory. The Chinese Government being desirous to avoid any act amounting to intervention in Russian internal affairs, such as the tolerance of the presence of armed troops of either party on Chinese territory, attempted to disarm the refugee force. While some were disarmed, others resisted. The matter has not been settled at this date. There are with the Semenoff forces a number of Japanese officers and some Chinese mercenary troops enlisted and hired by General Semenoff.

The financial destitution of the Central Government caused by the condition and methods described above led the officials of the Central Government, as well as of many provinces, to take recourse to foreign loans. During the quarter among the more important loans, all Japanese, there were a loan of twenty million yen, secured on the revenues of the Government telegraph system; a loan of three million yen marked for the construction of wireless stations; a loan of twenty million yen for additional construction on the Kirin-Changchun Railway; a loan of three million yen to Fengtien Province for the redemption of small coin notes, secured on collieries; a number of other loans were in the process of negotiation, secured

on mining rights and Government revenues. The larger part of the proceeds of these loans, for whatever purpose avowedly constructed, were used to defray military operations, such as described above. The wholesale pledging of important national revenues and resources for such a purpose was bitterly condemned and resented by the Chinese people. The bearing of the liens and concessions granted in these loan contracts on the commercial rights and opportunities of other nations still remains to be seen.

(2) *Attitude toward the United States and Americans*

The customary friendly attitude toward America of the Chinese officials and people found an active expression when in the American Red Cross drive of May an invitation was extended to Chinese to become associate members of the American Red Cross. The response was spontaneous and enthusiastic. Local committees were formed by Chinese in Shanghai, Canton, Hankow and other important centers. As a result about thirty thousand Chinese associate members were added to the Red Cross and large contributions were made to the Red Cross funds by the President, Premier, Cabinet ministers, and several governors of provinces. The invitation was understood by the Chinese as an opportunity to show in a concrete form their desire to be personally of assistance in the war through associating themselves with an organization the constitution of which admitted foreign associated members.

The Chinese officials and people continue to be most anxious that Americans should interest themselves financially in China. The development of Chinese communication and resources has suffered a great deal through the temporary withdrawal of capital support from Europe. The delay in railway construction is felt particularly as an injury to commerce as well as to the political necessity of a more complete union of China. This union cannot become effective before the North and South, the East and West, are joined by railways, which are indeed already surveyed, the construction of which however has been prevented on account of the war. The Chinese believe that by devoting a relatively infinitesimal part of American capital strength to Chinese development at this time, results largely in excess of what could be expected in ordinary times would be obtained in improving conditions in China; the direct return to the investor would also be substantial. . . .

I have [etc.]

PAUL S. REINSCH

File No. 893.00/2879

The Chargé in China (MacMurray) to the Secretary of State

No. 2194

PEKING, August 13, 1918.

SIR: Referring to the despatch (No. 2124) of June 26 last,¹ with which the Legation forwarded copies of despatches bearing on political conditions in the disturbed provinces of China, I have the honor to enclose herewith copies of the following despatches, addressed to the Legation by the several consulates.¹

¹ Not printed.

In this connection, I have to advise you that the Legation has just received from the Vice Consul in charge at Changsha a telegram to the effect that the local authorities consider it unsafe for missionaries to return to the interior of Hunan Province; and that he and his British colleague are proposing to instruct American and British missionaries, particularly women and children, not to return to their stations in the interior. After consulting with the British Legation, I have telegraphed Vice Consul Nicholson to join with the British Consul in preparing identical notices to their respective nationals that women and children must not for the present go into the interior of Hunan Province, and that men are to be advised of the grave risk which they would incur in doing so.

I have [etc.]

J. V. A. MACMURRAY

File No. 893.001H85/1

The Chinese Minister (Koo) to the Secretary of State

No. 74

WASHINGTON, September 5, 1918.

SIR: I have the honor to inform you, in pursuance of instructions from my Government, that His Excellency Hsü Shih-ch'ang has been elected President of the Republic of China for the next term in accordance with the laws of the Republic.

Accept [etc.]

VI KYUIN WELLINGTON KOO

File No. 893.00/2891

The Chargé in China (MacMurray) to the Secretary of State

No. 2232

PEKING, September 9, 1918.

SIR: I have the honor to enclose herewith copies of the following despatches from various consulates in China:

[Here follows list of enclosures.¹]

As will be noted, nearly all of these despatches bear upon the conditions in the districts where the fighting between the North and the South is going on. At the present time neither the Northern nor the Southern generals seem to care to pursue active fighting, and the hope is universal that when the new President takes office the two factions can in some way be brought together. The uncertainty which exists is paralyzing and the prevalence of brigandage in the area involved has almost brought business to a standstill.

I have [etc.]

J. V. A. MACMURRAY

File No. 893.001H85/1

The Secretary of State to the Chinese Minister (Koo)

WASHINGTON, September 14, 1918.

SIR: I have the honor to acknowledge the receipt of your note No. 74 of the 5th instant, in which, by instruction of your Govern-

¹ Not printed.

ment, you advised me that His Excellency Hsü Shih-ch'ang has been elected President of the Republic of China for the next term in accordance with the laws of that Republic.

Thanking you for the information contained in your note, of which due note has been taken, I beg [etc.]

ROBERT LANSING

File No. 893.00/2877

The Chargé in China (MacMurray) to the Secretary of State

[Telegram]

PEKING, September 17, 1918, 1 p. m.

My September 4, 5 p. m.¹ In spite of strong pressure brought to bear upon him by the military clique, President-elect Hsü is seeking to prepare the way for a reconciliation between the Northern and Southern factions. Through his influence the Peking Parliament is holding open the choice of a Vice President with a view to a possible compromise by which that office will be given to one of the Southern leaders. On the other hand, the Canton Government, while denying the legality of Hsü's election by the Northern Parliament, is entirely well disposed towards him personally and is thought to be deferring the election of a President until some agreement has been reached by which the Southern Parliament will also elect him.

Among the proposals for reconciliation, which are being discussed more particularly by those who are connected with the President-elect, that plan that now seems to be no doubt seriously considered is to arrange through intermediaries an understanding with the Southern leaders that both of the rival parliaments will be recognized as unconstitutional, the one because of its having exhausted its term and the other by reason of its having been elected and convened without constitutional warrant; both parliaments, however, to be recognized *de facto* to this extent, that a small number of delegates from each shall be convened to arrange for a settlement and to determine the laws under which the elections for a new parliament will be held.

In connection with this or similar proposals, the suggestion is freely made by those who are in close political relations with Hsü, that the negotiations for reconciliation would be greatly aided and the antagonism of the military faction made ineffective if, preferably at the instance of the United States, the Allied Governments would unite in advising that the Chinese factions compose their difficulties.

It is understood that Premier Tuan has assured Hsü of his readiness to retire upon latter's assumption of office but certain of his adherents are even reported to be attempting to intimidate Hsü in order to avoid a political settlement by which the military element would lose its influence. They are understood to be planning to force the election of Tuan as Vice President in which case they would endeavor to make the presidency untenable for Hsü as for Li and for Feng before him and in that event it is not unlikely that the restoration of the monarchy would prove to be the resultant of forces.

MACMURRAY

¹ Not printed.

File No. 893.001H85/4

President Wilson to President Hsü Shih-ch'ang

[Telegram]

WASHINGTON, October 10, 1918.

On this memorable anniversary when the Chinese people unite to commemorate the birth of the Republic of China, I desire to send to you on behalf of the American people my sincere congratulations upon your accession to the Presidency of the Republic and my most heartfelt wishes for the future peace and prosperity of your country and people. I do this with the greatest earnestness, not only because of the long and strong friendship between our countries, but more especially because, in this supreme crisis in the history of civilization China is torn by internal dissensions so grave that she must compose these before she can fulfil her desire to cooperate with her sister nations in their great struggle for the future existence of their highest ideals. This is an auspicious moment, as you enter upon the duties of your high office, for the leaders in China to lay aside their differences and guided by a spirit of patriotism and self-sacrifice to unite in a determination to bring about harmonious cooperation among all elements of your great nation, so that each may contribute its best effort for the good of the whole, and enable your Republic to reconstitute its national unity and assume its rightful place in the councils of nations.

WOODROW WILSON

File No. 893.001H85/3

President Hsü Shih-ch'ang to President Wilson

[Telegram]

PEKING, October 13, 1918.

Please accept my very sincere thanks for your telegram of congratulations upon my assumption of the office to which I was duly elected by the Parliament of the Republic. It is my earnest desire that not only the traditional intimate friendship existing between our two countries will be maintained and strengthened but also efforts within our power will continue to be exerted towards the furtherance of the common cause in which the splendid success of the army of your country has won the admiration and respect of the world. National unity upon which the welfare of the people entirely depends is a matter demanding my first attention, and you may be assured that I will put forth my best efforts to bring about its consummation and meet the wishes of the people of the whole country that in coming councils of family of nations our country may assume its rightful place and work with your country hand in hand toward the realization of the highest ideals.

HSÜ SHIH-CH'ANG

File No. 893.00/2893

The Minister in China (Reinsch) to the Secretary of State

[Telegram—Extract]

PEKING, October 19, 1918, noon.

Political affairs in Peking have reached a stage of deep degradation. . . .

The military clique are attempting to make the War Participation Bureau the center of their influence on the Government. General Tuan is now at its head. It is given control of business relating to finance, natural resources, and police over the heads of the powerless ministries. It uses Japanese financial support and debauches Government finances by corrupt expenditure on a vast scale. Twenty-million-yen loan presumably concluded [will not be made public?]. Larger sum under consideration for immediate action involving Japanese control of the army, entire Chinese military establishment, military training arsenals, and ammunition. General Hsü Shu-cheng, the chief manipulator, is to be sent to Japan to conclude this matter. Other arrangements are incidental to this, such as loans mortgaging natural resources in forests and mines as well as Government agencies like telegraph system, also the monopolistic trading company reported on in telegram August 29,¹ and the unsound gold-note scheme which is being attempted contrary to obligations to other nations. In all respects, the methods of this clique are insolent and ruthless including an absolute suspension of all free discussion in the newspapers which are terrorized through frequent police interference. Eight papers recently suppressed because printing details of loans concluded with Japanese. This organization is attempting to fix upon the country military rule under Tuan. While supposedly devoted to prepare for participation in European war, only aim War Participation Bureau appears to be personal enrichment of clique and their control of country through corrupt and ruthless means. Troops belonging to the bureau were recently on their way to Fukien to fight against the South but were stopped by Governor Li Shun. The bureau has spent million[s?] in corrupt practices during presidential election and vice-presidential election now pending. This organization involves a denial of every principle of national and international action for which Allies are fighting; it involves the suppression of opinion, secret agreements, lack of public responsibility and the supremacy of military power. This organization is devoid of all moral and actual authority in China as is the Central Government which it controls. It is not fulfilling any of fundamental duties of Government, being powerless to command, to levy taxes, or to protect the citizens. The clique maintain themselves by buying with foreign money the support of the most corrupt among the military leaders. That they cannot be got rid of is due solely to foreign support. The country from end to end is suffering under their abuses but organized opposition is prevented by sinister outside influence which works with corrupt elements wheresoever found and paralyzes sound action.

¹ Post, p. 153.

The new President is desirous of a reunion of the country yet there is danger that he will fall into financial dependence upon the military clique. However, there are many tentatives for reunion. The Commonwealth Party under Liang Shih-yi and Chow Tze-chi is opposing the military. They have so far blocked election of General Ts'a'o K'un as Vice President because the election of a Northern military man would definitely close the door to an understanding with the South. Elements inclined to cooperating [?] with them are Governor Li Shun and the other Yangtze governors, commercial bodies in China, and the moderate elements in the South. It has been suggested that committees from both parties should meet in order to make laws and arrangements for a new united parliament. All this takes time, the forces of corruption work day and night.

The tentatives toward reunion would be greatly assisted if in the spirit of the President's telegram October 10, to President Hsü, the hands of the President of China and of leaders striving for reunion would be strengthened by moral support from America, from England, and the other Allies. Corrupting and demoralizing action exercised through the Peking clique needs as a counterbalance publicity and open support of all tentatives for reunion together with the convocation of a national parliament. Only this can prevent irremediable injury through the squandering of public resources and the mortgaging of the future of the country by an irresponsible clique which holds none but the most formal political authority.

That its authority to dispose of the destinies of China is supported only on the fact of its having locally succeeded to the national authority of the Chinese Government brings up the question how long this clique devoid of real authority is to be recognized as the Government of China and how long the powers are to sanction the paying over to it of the revenues belonging to the whole nation. . . . To stop this nefarious business, a number of steps would be necessary:

1. There must be complete and world-wide publicity. In the open light, the majority of these projects could not have been born at all. At present the effort is not only to suppress absolutely all information about the dealings affecting the rights of all China, but to suppress also constructive proposals such as that of President Wilson contained in his recent telegram to President Hsü. When the leading British paper in China recently made the tentative suggestion that America and Great Britain could best show the Chinese Government the way out of its difficulties through an impartial mediation, counter efforts were immediately made by Japanese officials; for instance, Japanese Consul at Nanking called on Governor Li Shun and stated his confidence that the Governor would certainly consider the proposal of the Shanghai paper as an unwarranted interference by western people in the internal affairs of China.

2. The Japanese Government should understand without delay that the methods and aims of its present action in China are viewed with the severest disapproval and that the results of such action cannot be accepted on the basis that unconscionable or monopolist arrangements will have to be canceled and rightful relations established after the war in the joint interest of the Chinese people and all of the nations having relations with it. The Japanese Government

has avowedly acted as a trustee of the Allied Governments and must therefore expect to make an accounting of its trusteeship.

3. In China it should be made immediately plain to politicians, the military, and the Chinese public, that the utilization of the War Participation Bureau, supposed to be working in the Allied interest, for purposes of personal and factional politics is thoroughly disapproved and that unless this organ confines itself to its proper work and the Chinese Government makes successful efforts to unite the Chinese nation under its authority, the continued recognition of the present Peking Government becomes questionable.

4. The immediate completion is essential of the arrangements contemplated for placing finances of China on a firm basis providing abundant means for justifiable purposes but eliminating so-called industrial loans diverted to corrupt intrigues.

I have the honor to request for guidance in a most difficult and dangerous situation, an expression of the policy of the President and the American Government for meeting a danger threatening the interests and the peace of the United States as well as the future of the Japanese and the Chinese people; and an intimation how far you desire me at this time to work for complete publicity of all arrangements affecting American and general interests and to intimate when occasion affords disapproval of actions tending to continue disunion and of the use of the War Participation Bureau for factional purposes. My European colleagues are equally, if not more concerned over the situation here. It is their opinion that but little can be expected from representations to the men controlling the present Government who are but puppets in hands of outside forces but that relief can be expected from[?] only when it is possible to talk frankly but in the strongest terms to the Japanese Government whose best interests are in fact also gravely endangered by the reckless policy hitherto pursued in China.

REIN SCH

File No. 893.00/2900

The Japanese Embassy to the Department of State

The continued civil strife which has divided China for the last two years has been a source of grave concern to the Japanese Government. It is as harmful to the interests of foreign powers as it is disastrous to the welfare of China herself, while the general atmosphere of unrest which prevails in the country encourages the malign activities of the enemy and hampers the effective cooperation of China with the Allies at this crisis of the world's history.

Careful survey of the situation in China has convinced the Japanese Government that a serious attempt should now be made by the Governments of Japan, the United States, Great Britain, France, and Italy in the form of joint representation to the leaders both in the North and in the South to impress upon them the urgent and supreme importance of arriving at an amicable settlement of their differences and of securing to China peace and unity within the borders of the country.

There is no single fact to point to anything which insurmountably stands in the way of the desired reconciliation if the leaders of both the contending factions should approach problems from a higher plane of thought than that of mere consideration of personal sentiment or of legal technicality.

It should be made clear to them that the five Governments take no interest in the particular terms of adjustment which it remains exclusively for the Chinese themselves to arrange.

Assurances should further be given that the joint representation now suggested is of an entirely friendly nature and does not contemplate any ulterior plan of intervention.

If the foregoing proposals should meet with the approval of the United States Government it is hoped that its representatives at Peking and at Canton will be instructed to act in the sense indicated in concert with their colleagues of the powers interested.

It is the intention of the Japanese Government that the form and other particulars of such representations shall be left for the representatives of the five powers at Peking to discuss and to decide, having regard to the importance of avoiding all appearance of recognition of the political organization at Canton.

WASHINGTON, undated. [Handed to the Secretary by the Ambassador, October 25, 1918.]

File No. 893.00/2896

The Minister in China (Reinsch) to the Secretary of State

[Telegram]

PEKING, October 26, 1918, 5 p. m.

The sentiment for peaceful settlement of internal discord is growing. Peace society composed of prominent men all parties has been formed and is active. Military leaders, though discounting civilian efforts at peace, are themselves talking compromise with Southern military men. The President yesterday issued a peace mandate in which, taking as his point of departure President Wilson's statements on international relations, he bewails the evil results of civil strife in China and proposes reunion without as yet laying down a definite procedure of reconciliation. He pictures the advantage of reunion when, joining hands with the friendly powers, united China again turns to development of industry and reform of government.

The reference to reconstituting national unity in the President's telegram to President Hsü has made a profound impression, it has been welcomed by leaders and the public as counsel inspired by true friendship. The press has been filled with reports that the American and British Ministers were working for peace. A formal proposal in this sense would have been felt as a relief and escape from a difficult situation. I have confined myself to expressing to the President in line with President Wilson's statement, when the occasion demanded, the hope that wasteful civil war might be ended but have of course made no *démarche* of any kind.

Telegram received from Ambassador Morris yesterday indicates that the Japanese Government too has read the spirit of the times and

concluded that the backing of the Chinese military clique in prolonging civil strife has served its purpose and that a different policy must now be inaugurated. Their officials in China had hitherto shown themselves exceedingly jealous of the supposed leadership of Great Britain and America in favor of a peaceful settlement. After action taken by President Hsü, any joint *démarche* or advice could now properly take the form of indorsing his proposal and urging its prompt execution.

REINSCH

File No. 893.00/2898

The Minister in China (Reinsch) to the Secretary of State

[Telegram]

PEKING, October 30, 1918, 7 p. m.

My telegram October 26, 5 p. m. The President is greatly encouraged by favorable reception of his peace proposal in most quarters. His chief difficulty lies in finding financial means to take measures necessary to put the country on a peace footing and meanwhile to carry on the Government, aside from the sources which have supplied the military clique in the past. Before issuing mandates for absolute cessation of hostilities he must feel assured of financial support for expense of disbandment of troops and general expenses until reorganization of the Government is effected and normal revenues are again completely available.

He therefore asks whether, if he should take decisive action for peace, he may count on immediate financial backing of the Government's authority, at least to the extent that negotiations for a short-time loan will be immediately taken up, affording the means for reconstruction of public credit and finance on a firm basis.

I have the honor to recommend as the most important part [of] a friendly assistance to China towards a peaceful settlement, an announcement of policy to give support to the reunited Chinese Government for definite reconstruction purposes approved by the friendly powers taking such action and with an adequate control of the proper application of such funds.

REINSCH

File No. 893.00/2916

The Minister in China (Reinsch) to the Secretary of State

No. 2319

PEKING, November 8, 1918.

SIR: I have the honor to forward for your information copies of a telegram from Dr. Wu Ting-fang in which in behalf of the "Military Government" at Canton, he protests the election of President Hsü Shih-ch'ang as illegal and announces that the Cabinet of the "Military Government" will perform the functions of President.

I have [etc.]

PAUL S. REINSCH

[Enclosure—Telegram]

Dr. Wu Ting-fang to the Dean of the Diplomatic Corps

CANTON, October 12, 1918.

I have the honor to forward for your perusal the following despatch which I request you to be good enough to transmit to your Government and also to communicate to your colleagues for transmission to their respective Governments.

The Military Government has received a despatch from the National Assembly announcing the following declaration made by the two Houses at a joint session held at Canton the 8th October 1918.

The election of the President is the duty of the members of the National Assembly. According to Article 3, clause 2, of the presidential election law, three months prior to the expiration of the President's term of office, the members of the National Assembly of the Republic shall themselves convene and organize an Electoral College to elect the succeeding President. Owing to the unusual political upheaval of the country at the present time, the business of electing a succeeding President must be postponed. From the 10th day of the 10th month of the 7th Year of the Republic (i. e., 10th October 1918) the Military Government is hereby empowered to exercise the functions and duties of the Cabinet and in accordance with Article 6 of the presidential election law the Military Government is to perform the functions and duties of the President until the day when the succeeding President shall have been elected.

In accordance with the above declaration, the Military Government of the Republic of China as from the 10th of October 1918 exercises the functions and powers of the Cabinet and, in accordance with Article 6 of the presidential election law, performs the functions and duties of the President until the day when the succeeding President shall have been elected.

WU TING-FANG

*Administrative Director and Minister for Foreign Affairs
in the Military Government of the Republic of China*

File No. 893.00/2915

The Minister in China (Reinsch) to the Secretary of State

[Extracts]

No. 2321

PEKING, November 8, 1918.

SIR: I have the honor to forward for your information newspaper reports and articles dealing with the matter of reconciliation and peace in China.

The congratulatory telegram of the President of the United States to President Hsü Shih-ch'ang on occasion of the latter's succession to office and particularly the reference therein to the desirability of peace in China has made a great impression upon both officials and the public. At first the militarists seemed desirous of preventing currency of this telegram but they later fell in with the tendency of the times and expressed themselves in appreciative terms of the President's good advice. There are herewith enclosed copies of the translation of President Wilson's message into Chinese as it was posted publicly in all parts of China. . . .¹

On October 24, President Hsü Shih-ch'ang issued a peace mandate, translation of which is herewith enclosed. On October 28 it became known that the Japanese Government, too, was in favor of friendly mediation.

¹ Not printed.

The civilian leaders residing in North China formed two peace associations in which the most prominent men of all parties participated.

In my first conversation with President Hsü Shih-ch'ang on October 18, the President stated that it was the central principle of his policy to bring about peace but that he was worried as to the financial support of the Government during the period of negotiation and demobilization.

In my second conversation with him, on October 31, he explained his plan as he had developed it at that time; he stated that a discussion of the matter on the basis of the legality of Parliament would affect only the civilian leaders. He had therefore decided to enter into negotiations with the military leaders of the South and was in hopes that an arrangement could soon be arrived at. General Li Shun, of Nanking, had been asked to mediate. Provisions would have to be made to give the Southern leaders offices and support for their troops. When an agreement of the military leaders had been secured, it would then be easy to settle the constitutional question. Opinions as to the wisdom of this course differ but as the militarists are in control on both sides they cannot be entirely ignored. The danger is that the President will be drawn too much into the militarist intrigue with the result of still farther increasing the influence of that class.

On the whole a feeling of real hopefulness prevails among the Chinese; they think that peace is now obtainable and they draw great comfort from the changed international situation due to the defeat of the Central powers.

Various articles concerning President Wilson's congratulatory telegram and the peace movement in China are hereto attached.¹

I have [etc.]

PAUL S. REINSCH

[Enclosure]

Extract from the "Peking Leader" of October 26, 1918—President Hsü Shih-ch'ang advocates peace

October 24.

The following mandate advocating peace was issued late on Thursday night by President Hsü Shih-ch'ang:

The European war has seriously affected the political situation of this country and greatly shaken the whole world. The existence of a nation does not depend merely on military force; it is international peace that will in the future guarantee the welfare of the human race. The President of the United States in his many speeches has clearly set forth the principles of universal peace. He is admired by the Government and people of this country. The tendency of the world is such that most of the Allied powers are now assisting the United States President to guide the world towards peace. Our object in participating in the war against Germany and Austria is to preserve humanity and uphold the international law, so that eventually permanent peace may be restored to the world. So long as this aim is not realized we should unite ourselves to render material assistance to the Allies. At this critical juncture of the world's affairs I have been elected President of the country. I feel it incumbent upon me to make a careful study of the situation of the world in order to draw up plans for reorganization.

¹ Not printed.

The European war has been going on for several years. The peoples against whom the Allies are fighting are our own enemies, and the principle we are fighting for is righteousness. But in spite of this fact peace proposals have been made to our Allies by the common enemies. Now all the provinces of their [*sic*] country are under one unified Government. Though the southwestern provinces may hold different political views from the others, the glory or disgrace of the nation affect them as much as they affect other provinces. Therefore, they should not separate themselves from the other provinces. In reality there is no distinction between North and South; hence no boundary of any kind should be drawn to separate them. All those who have perished in the present civil struggle are our own brethren and what has been wasted in the form of military supplies all came from our own flesh and blood. This internecine strife has done nothing good to the country but has considerably shaken the foundation of the Republic. To me there is no reason why we should not remove our private prejudices for the benefit of the people at large. By doing so we can strengthen the foundation of the country and alleviate the sufferings of the people. The advantages and disadvantages must be apparent to every sensible man.

It is to be admitted that the Central Government should deal with the nation frankly; but at the same time it should be remembered it is often difficult for the Government to explain its sincerity to all the people. This is best illustrated by the recapture of Changsha and Yochow. Suspicion must be removed while defensive measures have to be adopted. Anyone who attempts to disturb peace and order should be suppressed by every means.

Now that the European powers are about to lay down their arms it is an excellent opportunity for our country to effect a reorganization. In order to work hand in hand with the Allies for democracy we must first devote the energy of the whole nation to introduce reforms in our Government and develop industries. Even if we make strenuous efforts now to attain that end we cannot be sure that we are not already too late. Therefore how can we afford to prolong the internal struggle? The civil war has dislocated the machinery of Government; and commerce and industries have been almost ruined. The continuation of any of these conditions will cost us very dearly. Apart from the critical external situation I emphatically state that the present state of affairs cannot be allowed to continue. I sincerely hope that my brethren will unite themselves and abandon their original plans of mutual destruction. First, the civil war must cease; and the vitality of the country must be preserved. Secondly, the administration must be completely reorganized. Otherwise the future of the Republic will be utterly hopeless.

The policy to be adopted by the Government shall be the promotion of education and the development of industries. But to carry out this policy satisfactorily one must possess a knowledge of the conditions of the world. Although our civilization reached a high standard earlier than any other country we have made less progress since. Therefore we have to introduce what is good in the civilization of other countries into our country to make good our deficiency. Rich as our natural resources are, we are in need of capital to develop them. Hence we have to rely on foreign capital for assistance. Our country is the foundation of our existence, but we have to follow the tendency of the world if we wish to make progress, enlighten the people and improve their economic conditions. In the same way, if self-government of the people is properly developed, the strength of the nation will increase. This is the only way to preserve our old civilization and carry out the principles of true republican government. I, the President, do not fear to make my voice hoarse in declaring to the nation my desire for peace, because I earnestly think that eastern Asia should enjoy permanent peace with the rest of the world. Now the general situation in the country is not quite settled; above everything else, protection should be given to the people. The civil and military authorities in the country who are responsible for the defense of the localities under their respective jurisdictions should observe the mandate issued some days ago to suppress the bandits and maintain peace and order. As this is closely connected with the welfare of the people they should not neglect their duties, and all in office should bear my words in mind.

File No. 893.00/2900

The Department of State to the Japanese Embassy

The Government of the United States is in full accord with the views of the Japanese Government, as set forth in the memorandum handed to the Secretary of State on October 25, both as regards the seriousness of the situation in China and as to the desirability of urging upon the leaders of China the primary necessity of reconciling their differences and of putting an end to an internal strife which is injurious alike to their own interests and to those of others. It is therefore instructing its representatives at Peking and Canton to cooperate with their colleagues, if similarly instructed, along the lines of the above-mentioned memorandum.

It is the opinion of the Government of the United States that the proposed representations would be greatly strengthened if at the same time an assurance were given that the interested powers were prepared to render a reunited Government of China necessary financial assistance provided satisfactory guarantees were given that the funds would be properly used; and that meanwhile no funds would be advanced to either side for any purpose without such guarantees. The Government of the United States is ready, for its part, to give such assurances and it is hoped that the other interested powers will concur.

WASHINGTON, November 16, 1918.

The Secretary of State to the Minister in China (Reinsch)

[Telegram]

WASHINGTON, November 16, 1918, 6 p. m.

Your telegram October 26, 5 p. m. The Department has to-day sent to the Japanese Embassy the following memorandum in response to the memorandum handed to the Secretary of State on October 25, copy of which was sent you from the Embassy at Tokyo:¹

[Here follows text of the memorandum.²]

You will be guided accordingly and give appropriate instructions to the Consul General at Canton. The full text of any agreement that may be reached should be submitted to the Department before final action is taken.

Repeat to Tokyo for information.

LANSING

File No. 893.00/2899

The Minister in China (Reinsch) to the Secretary of State

[Telegram]

PEKING, November 18, 1918, 5 p. m.

Referring to my cable November 12, 6 p. m.³ Upon receiving from the Southern military leaders what he considered satisfactory assur-

¹ *Ante*, p. 114.

² See the preceding document.

³ Not printed.

ances of their readiness to cooperate in settling the civil war, the President yesterday issued a mandate directing the cessation of hostilities and the withdrawal of the Northern forces and bespeaking the efforts of the whole country towards unification.

I have dispatched following telegram from [sic] to the Consulate General at Canton.

November 18, 5 p. m.

For your information. Mandate of the President of China for the cessation of military action issued yesterday is considered here as a patriotic and wise act which merits support of all China. Should Southern leaders, notwithstanding this act of peace, announce further military action, they would undoubtedly turn public opinion of the world absolutely against them and also bring further woe on China.

REINSCH

File No. 893.00/2904

The Japanese Embassy to the Department of State

The suggestion concerning the assurance to be given the Chinese Government in regard to the financial assistance as stated in the latter part of the memorandum of the State Department dated November 16 falls in line with the views of the Imperial Government, as they understand it.

Accordingly, they have instructed their representative in Peking to take necessary steps in the sense of the above-mentioned suggestion if the other powers concerned will also agree.

WASHINGTON, November 25, 1918.

File No. 893.00/2925

The Minister in China (Reinsch) to the Secretary of State

[Extract]

No. 2348

PEKING, November 29, 1918.

SIR: I have the honor to enclose herewith the third quarterly report of conditions and events in China, for the period from July to September 1918, inclusive, prepared by Mr. MacMurray, who was in charge of the Legation during that period. . . .

I have [etc.]

PAUL S. REINSCH

[Enclosure]

Third quarterly report of conditions and events in China

I. POLITICAL INFORMATION

A. DOMESTIC

1. Political observations and developments

The quarter under review represents what, it is to be hoped, will prove the lowest ebb in the national and political life of China; in it, the disintegration of governmental authority, and its perversion to the profit of a small clique of military leaders, reached a development that was a *reductio ad absurdum* of the

whole practice of government in China at the present time. As was pointed out in the Minister's second quarterly report, there is a type of military leaders to whom war is a pecuniary business rather than a profession. To the tuchuns of this type, the possession of armed forces is an asset in the nature of a claim upon the Government for the maintenance of those forces as well as a means for impressing upon the Government the urgency of such claims; in general, their troops are neither in actual numbers so considerable as represented by the respective leaders, nor are they in training or equipment adequate for serious military operations, but by their mere existence in readiness for a hypothetical military purpose, they contribute to the political prestige of their respective leaders, in addition to being of financial profit. It is, of course, necessary as a warrant for their existence, however, that there should be some plausible military objective in view; and for this purpose the war between North and South has for the leaders of this type on both sides constituted the most acceptable and satisfactory occasion to warrant the continuance of the system which has, during the past few months, so greatly developed and increased its influence in the polities of China. The civil war has, therefore, become in the minds of most of the tuchuns a vested interest which they have not been prepared to relinquish for the sake of national unity or for the sake of saving their country the enormous waste of money and resources and the even more serious disadvantage of having to obtain the necessary funds, by the only means immediately available, from foreign interests which have exacted rather far-reaching political commitments in exchange for such accommodation.

The continuance of the civil war has not, however, involved any very considerable military operations during the period under review; except for operations of no great significance in Szechwan, Hunan, and Fukien, there has throughout this period been a virtual truce between the contending armies.

While this somewhat technical condition of war suffices as an occasion for the tinsel militarism which the tuchuns make their trade, it is of course impossible for that trade to thrive solely upon local perquisition, and the means for carrying it on must therefore necessarily be found elsewhere. It is generally reckoned that during the summer, the maintenance of the forces commanded by the tuchuns ranged on the Northern side has cost between \$10,000,000 and \$15,000,000 per month in excess of the available revenues of the Peking Government. The deficit has, of course, had to be made up by foreign loans, and for the time being no loans for that purpose were available from any but Japanese sources; and even as among Japanese sources, the official group (represented by the Yokohama Specie Bank) was precluded from making independent loans to the Chinese Government for political purposes, by virtue of the interbank agreement of 1913 by which the British, French, Japanese, and Russian financial groups (formerly, also, the German group) associated themselves in the consortium for China business. The military group in control of the Peking Government, therefore, found itself compelled to deal with the recently formed Japanese syndicate, including the Industrial Bank, the Bank of Taiwan, and the Bank of Chosen, represented in Peking by Mr. Nishihara, who was understood to be a personal representative of the Japanese Prime Minister (Count Terauchi), and who in his various loan negotiations with the Chinese Government acted at least ostensibly in entire independence both of the official Japanese banking group and of the Japanese Legation in Peking. A somewhat confusing element was introduced by this dualism of Japanese activity, inasmuch as the diplomatic mission on several occasions denied the progress of any negotiations, even after the time when (as subsequently appeared) those negotiations had led to an agreement; and the Yokohama Specie Bank, representing the official group, at least once had occasion to join with the other consortium banks in a protest against the infringement of their rights by action taken by the Chinese Government in pursuance of arrangements made with Mr. Nishihara. It nevertheless appears from an official report issued in August by the Japanese Ministry of Finance, on the subject of the financial activities of the Japanese Government in China, that the various transactions conducted by Mr. Nishihara had been approved and carried out with the cooperation of that ministry; and certain contracts for railways in Manchuria and in Shantung, and projects in connection with the development of the iron industry, subsequently dealt with by him, were recognized and adopted in an official statement issued early in October by the Ministry of Finance after the Hara Cabinet had replaced Count Terauchi's. It was the peculiarity of a number of the loans thus made to the Peking Government that, while contracted ostensibly for industrial purposes, such as the construction of railways, and the development

of timbering and mining industries, they contained none of the usual provisions to assure that the proceeds should be devoted to the purposes specified, but on the other hand provided for very considerable advances to be made immediately; and in each of such cases, the money advanced has been found to have been spent in meeting the demands of the several tuchuns for military expenses, the contemplated industrial development has made no progress towards a beginning, and the projected enterprise is burdened in advance with heavy obligations for the funds already misspent, with the result that its possibilities of success as a commercial undertaking are so seriously compromised as to raise the question whether the Chinese negotiators themselves foresaw any prospect other than eventual foreclosure by the Japanese lenders.

The titular head of the Northern Government, Acting President Feng Kuo-chang, remained a political nonentity, restive under the control actually exercised by the military clique, and frequently taking private occasion to deprecate their activities, but invariably yielding and excusing his weakness on the ground that it would only lead to greater trouble if he were to assert himself during his remaining tenure of office (expiring on October 10). The Premier, General Tuan Ch'i-jui, continued to exercise all such authority as remained in the Peking Government, although in fact he was less active than obstinate in his subserviency to General Hsü Shu-cheng, who controlled in his behalf the politics of the Northern military party—apportioning appointments and funds among the several tuchuns in such a manner as to reconcile so far as possible their personal interests with the corporate interests of the clique; and his manipulations throughout this period were successful in preventing any open break among the principal members. He was not successful, however, in reconciling the group of Yangtze tuchuns under the leadership of General Li Shun of Nanking, who maintained their attitude of somewhat critical aloofness from the other Northern leaders. In the meanwhile, the provider of the necessary funds was Mr. Ts'ao Ju-lin, Minister of Communications and concurrently Acting Minister of Finance, who, either alone or in association with Mr. Lu Tsung-yü, negotiated—in most cases without the knowledge even of the subordinates in his own ministries—the various loans upon which the Government subsisted.

The so-called Canton Government, reconstituted under a military directorship as described in the Legation's second quarterly report, maintained its hold upon the southern Provinces, and somewhat strengthened its military position in Hunan and in northern Kwangtung and Fukien. The old Parliament, which had been ousted from Peking in June 1917, obtained a quorum during the summer, and convened as the authoritative legislative body of the Republic, still professing to recognize ex-President Li Yuan-hung as being the actual President although prevented from exercising the functions of that office.

During the summer there developed among all classes of the Chinese people, apparently in the South no less than in the North, a deep and resentful realization that the civil war was a political unreality, a quarrel involving no essential difference of principles or purposes, but kept alive solely as an occasion for the advantage of those in a position to profit by the borrowing of funds for the upkeep of military contingents. Public opinion in China is a thing hard to estimate; but it would seem that even among the usually apathetic majority of the Chinese people there was at last generated a feeling of bitterness at the way in which everything was being sacrificed for a purposeless continuation of strife. This resentment was, of course, more keenly felt among the more intelligent minority, and was perhaps strongest among the younger men in the various ministries and boards of the Government, almost without regard to their antecedents or political affiliations. It would seem that the weight of public opinion eventually made an impression even upon the more reactionary of the military leaders, and convinced them that they were overdoing the profitable system which they had developed, and must at any rate make some concession to appearances by uniting and supporting the election to the presidency of someone outside their own clique. In a conference held at Tientsin early in August they therefore determined to support ex-Premier Hsü Shih-ch'ang (to be carefully distinguished from General Hsü Shu-cheng) an old civil official of fine reputation as a scholar, and commanding possibly more general respect in China than any other man in public life. It is to be feared, however, that in agreeing to support a candidate of such deservedly high repute, the tuchuns' conference was not unmindful of the fact that despite his really fine attainments and high-mindedness, Mr. Hsü is not considered a man of energy or of forceful character; so that the military

leaders perhaps reckoned upon the possibility either of bringing him completely under their influence, or setting him aside—as they had been able to set aside ex-Presidents Li Yuan-hung and General Feng Kuo-chang—in case he should prove intractable. There was also some reason to believe that among the tuchuns were some who counted upon the possibility that in the latter event it would be possible to bring about a restoration of the Manchu Dynasty with the acquiescence of Mr. Hsü, who has been a guardian of the deposed Emperor, and who is believed to be sympathetic and loyal to the Imperial house.

The decision as to the candidate to be supported for the Vice Presidency proved more complicated, as General Hsü had unfortunately found it convenient at various times to promise this office both to Ts'ao K'un (Tuchun of Chihli) and to Chang Tso-lin (Tuchun of Fengtien, or Mukden). In some way not generally known, the claims of General Chang were satisfied or disposed of; and the choice of the conference fell upon General Ts'ao K'un—on the condition that he would make merit by undertaking to pursue actively the war against the South, he being generalissimo of the Northern forces; and General Ts'ao undertook to meet this condition if furnished with \$8,000,000 for necessary military expenses. Various installments (perhaps amounting to \$6,000,000) have been paid for this purpose to Ts'ao K'un, from time to time, as he found himself more and more nearly ready to leave his capital at Paotingfu and proceed towards the fighting front in Hunan: but he has not yet gone beyond his province and has not yet been elected to the Vice Presidency.

The decision of the conference of military governors at Tientsin, as to the election of Mr. Hsü to the Presidency, was in fact if not in theory conclusive; for the Parliament which convened in August, after election in pursuance of the law of January last, was of course dominated by the military party, and could be relied upon to carry its decisions into effect. Mr. Hsü was accordingly elected to the Presidency by the Peking assembly on September 4, by an almost unanimous vote, to assume office on October 10. In this election he was supported not only by the military element, but also by the Chiaotung party, which hoped that his personality might be a compelling factor in bringing about a reconciliation in the country, and make possible a gradual transfer of authority back to the civil officials from the hands of the military group which has of late been in control. This same element likewise opposed the election of Ts'ao K'un, or indeed of any vice president, in the hope that by leaving this office vacant there would be a greater possibility of accommodating the ambitions of the Southern leaders; and in view of the divergence among the partisans of the military party as to the candidacy of Ts'ao K'un, the Chiaotung faction have exercised the balance of power in preventing an election.

At the time of the tuchuns' conference in Tientsin, when their insistence upon the prosecution of the civil war gave emphasis to the partisan and personal character of their influence in the Government, there was an important defection from their own ranks: General Wu P'ei-fu, commanding the Northern invading forces in Hunan as second in command to General Ts'ao K'un, began to issue circular telegrams advocating the cessation of hostilities and the settlement of the contest with the South; and during the latter part of August he actually ordered the troops under his command to cease fighting, and withdrew them out of touch with the opposing Southern forces. For these pacific tendencies he was, of course, reprobated by his superiors and denounced as disloyal by the other militarists; but he was not relieved of his command. Although there is obviously room for the supposition that General Wu had disloyally entered into an intrigue with the Southern leaders, it is by no means certain that that is the case; impartial opinion is inclined to credit him with having acted courageously and patriotically in the hope of turning his military associates from the insensate policy which they were pursuing. Whatever may have been his motives, his action brought about the cessation of the desultory military operations, and presented sharply the issue whether the Northern Government should persist in its wasteful and ineffectual attempt to subdue the South. And upon the election of Mr. Hsü to the Presidency, it became clear that he was whole-heartedly in favor of a reconciliation and proposed to exert himself to find some acceptable basis of compromise. As against this intention, however, there was the strong pressure of the militarists who occupy positions of controlling influence in the Government, and the lack of funds for the paying off and disbandment of the armies and for the settlement of the expenses incurred by the Canton Government.

The Southern Government had in fact been in a financial situation even more desperate than that of the North. Of the national revenues levied within the

provinces controlled by the Southern troops, the Canton Government had indeed possessed itself of the salt taxes; but the customs revenues were beyond its reach by reason of their being pledged as security to the foreign powers for the payment of the Boxer indemnity and of various international loan obligations. Early in September, the authorities in control at Canton did inform the commissioner of maritime customs at that port that they proposed to take possession of the customhouse and administer the customs revenues; but upon intimations being conveyed to them, in behalf of several of the Legations, that any foreign sympathy for the Southern cause would be alienated by the seizure of revenues pledged to meet obligations for which the Peking Government was internationally recognized as responsible, the Canton leaders took occasion to deny that they had ever entertained such an intention. There have from time to time been reports of loans made by the Southern Government from Japanese sources, but it has thus far been impossible to verify them. During this quarter, the political situation in China was much affected by conditions in Siberia. On July 9, General Horwath, the manager of the Chinese Eastern Railway (the Russian-controlled link, through Manchuria, in the Siberian railway system), proceeded from his headquarters at Harbin into Russian territory, and just across the frontier, at Grodekoovo, declared himself dictator of Siberia if not, in fact, of all Russia. This action was considered by several of the Allied Ministers in Peking, who, by reason of there being no diplomatic representatives of their Government in Siberia, were at that time entrusted with the management of Siberian questions, as introducing a further complication into a situation which was already very delicate and dangerous. On July 12 they accordingly transmitted, through the Russian Legation, a joint representation in behalf of the British, French, and Japanese Ministers, urging General Horwath to withdraw his proclamation and return to Harbin, a representation to which General Horwath returned a negative answer after a fortnight's delay. The Chinese Government likewise took the attitude that by undertaking this political venture, General Horwath had foregone his position as manager of the Chinese Eastern Railway, and could be recognized only as a private Russian citizen in the event of his returning to Chinese territory; but this position was tacitly abandoned when the Horwath movement attained a certain measure of success. Early in August General Horwath proceeded to Vladivostok and for a time exercised a certain measure of control in Siberia but the subsequent development of his movement had no further direct effect upon the situation in China.

A phase of the situation in Siberia which more directly affected China began when the American and Japanese Governments agreed upon military cooperation at Vladivostok in the latter part of July. At that time the British, French, and Italian Governments arranged to dispatch contingents of from 800 to 1,600 men, partially made up from their Legation and railway guards in China, to join in these operations; and the Chinese Government also prepared a force of some 2,000 specially selected troops, and after some delays incident to the difficulties of transportation through Manchuria, placed them in the neighborhood of Nikolsk, somewhat west of Vladivostok. The northern (Amur) line of the Siberian railway between Lake Baikal and Vladivostok was in the hands of Bolsheviks and liberated enemy prisoners of war; the Chinese Eastern Railway (i. e., the southern section, passing through Chinese territory) was therefore the only means of rail communication between Vladivostok and the region in which Semenoff was operating more or less independently against Bolshevik forces just west of the Russo-Chinese frontier at Manchuli. The military importance thus accruing to this line occasioned several suggestions that it should be controlled by Allied forces with a view to the extension of operations westward into the region of Lake Baikal. The arrangements for eventual military cooperation between Japan and China, concluded in March last, provided that such cooperation should be undertaken only if and when it should become an actual military necessity. At the end of July, in response to somewhat insistent urging by the Japanese military representatives and advisers to the Chinese Government, the Chinese concurred in a formal statement that such a necessity had actually come to exist. On August 14 the Japanese Legation announced to a representative of the Premier that his Government proposed to dispatch 5,000 men to northwestern Manchuria to oppose the German-Bolshevik menace, and inquired whether the Chinese Government would be prepared to cooperate under the terms of the existing arrangement, the condition precedent to whose effectiveness had now been recognized; the Chinese authorities at once undertook to dispatch a force of 10,000, but were informed

that in view of the shortage of rolling stock on the Japanese-controlled South Manchuria Railway, it would be impossible to convey the Chinese forces over the section from Mukden northwards until the Japanese expedition had been transported. To their considerable chagrin, therefore, the Chinese authorities were unable to dispatch to Manchuria for a fortnight or so the troops destined to cooperate with the Japanese. In the meanwhile, the Japanese troops had occupied the railway westward from Harbin, in some cases displacing from their barracks the Manchurian provincial troops already stationed along the line, and ousting Chinese patrols from the guarding of bridges and other strategic points. Though it would perhaps be easy to exaggerate such incidents, there does in fact seem to be more than sufficient evidence that in constantly recurring cases the Japanese forces by their high-handed and overbearing conduct antagonized not only the Chinese but such other foreign forces as were later dispatched to that region of Manchuria. The Japanese forces were subsequently greatly increased to a number variously estimated but perhaps as high as 40,000. In addition to guarding the line of railway, they also dispatched expeditions northward to Heiho (on the Amur River opposite Blagoveshchensk) and westward into Outer Mongolia. Throughout the region in which they operated, the Japanese forces made use of military notes, in terms of Japanese gold *yen* instead of local currency, in payment of requisitions for supplies, a practice resented by the Chinese as introducing a further complication into the difficult problem of Manchurian currency.

During the first week of September, the Czechoslovak forces in western Siberia succeeded in possessing themselves of the main line of the Siberian railway system eastward from Lake Baikal, thus opening communications from European Russia to the Far East. The German-Bolshevik forces thus dislodged from the Trans-Baikal section of the railway retired to the line of the Amur Railway, concentrating at Blagoveshchensk, where eventually they were defeated and dispersed by the Allied expedition advancing from Vladivostok. The Japanese expedition in Manchuria advanced westward along the railway into Russian territory, to Chita; the Chinese forces, however, did not proceed beyond their own territory.

Throughout the Allied operations in Siberia and Manchuria, the question of the control of the Chinese Eastern Railway was of paramount importance. The right of constructing this line through Manchuria had been conceded by the Chinese Government in 1896 to a railway company formed for the purpose, an organization nominally private but actually under the complete control of the Russian Ministry of Finance, and by Russian law assimilated to the status of a Government institution. The concession reserves to the Chinese Government not only a right of repurchase or of eventual reversion, but also a right of participation in the management of the road. Despite this fact, however, the Russian rights had in practice been extended further and further, and Chinese control minimized, until it was at any rate the contention of the Russian authorities that for all practical purposes the railway was a Russian institution and the railway zone a portion of Russian territory. After the revolution in Russia, the Chinese had again made effective their right of participation in the management; and there may well have been some foundation for the report which became current early in July that the Government proposed to take advantage of General Horwath's political venture to take into its hands the full control of the railway. Such an intention was promptly denied by the Foreign Office; but it was at any rate clear that the Chinese fully realized that the railway concession constituted the basis for the whole fabric of economic and political interests which the Russians have built up in North Manchuria, and were apprehensive lest in the weakening of Russian control Japan should be tempted to substitute itself for Russia in the control of the railway, and thus extend its present claim to a sphere of influence in South Manchuria.

Under these circumstances, the proposal made by the American Government in the middle of September to place the whole Siberian railway system, including the Chinese Eastern Railway, under the control of Mr. Stevens and the Russian Railway Service Corps as agents and trustees of the Russian Government was received with obvious gratification by the authorities of the Chinese Foreign Office; for they readily perceived that the establishment of such a commission, acting under the guarantee of our Government that none of the various rights involved would be impaired thereby, would at least prevent any fundamental alteration of their position in reference to the railway. From

the first, however, it was manifest that those Chinese who most clearly recognized and most heartily welcomed the American proposal were apprehensive that it would be regarded by the Japanese as an attempt to curb their activities in Manchuria, and would in consequence be resented by them. This became more and more evident as the Chinese continually inquired what response the proposal had received from the Japanese Government; and by the time that it was possible to reply that Japan had notified its acceptance of the American proposal, several of the Chinese Ministries and military boards had been advised by Japanese representatives, both civil and military, that their Government did not in fact approve of the project and desired the Chinese authorities to withhold their consent to it. Under these circumstances, the Chinese Government has given no reply to the American proposal.

In the meanwhile the management of the railway has remained in the hands of General Horwath and his organization, although from time to time both the Czechoslovak and the Japanese forces have undertaken to exercise police powers within the railway zone, notably in the suppression of a strike among the employees of the railway early in September.

The embargo which the Chinese Government had placed upon the exportation of Manchurian products into Siberia had been removed before the commencement of the period under review and on the part of certain of the Allied Legations there was an effort to have it again brought into effect in order to prevent supplies coming into the hands of the Bolsheviks; but this was opposed by our Government. When, however, there was a concentration of German-Bolshevik forces at Habarovsk, the Allied Legations all united in obtaining the consent of the Chinese Government to a prohibition upon the export of foodstuffs by the Sungari River (August 30).

2. Attitude toward the war

The attitude of the Chinese people remained sympathetic towards the Allied cause, although not well-informed or generally enthusiastic. The attitude of the Government itself may perhaps be considered disappointing. It was indeed in support of Allied interests that the two Chinese expeditions were dispatched to Nikilsk and to northwestern Manchuria; but in other respects the Government, or individual officials, were apathetic or even lax. The project of interning the most dangerous of the German residents in China, which has been suggested by the Chinese Government to the Allied Legations after the failure of the plan to deport enemy residents to Australia, was treated in a dilatory spirit, and had not been carried into effect at the close of the quarter under review. A project for the establishment of a system of passport control upon all railways and steamships in China was likewise treated dilatorily. The regulations which had been enacted in restriction of trade with enemy subjects were left unenforced. The liquidation of the Shanghai branch of the Deutsch-Asiatische Bank, which had been entrusted to an Italian financial adviser of the Government, was hampered and circumvented under conditions which strongly suggested connivance between certain of the Chinese authorities and the former German agents of the bank. Although the facts are obscure, there is some reason to believe that the German share in the Ching-Hsing Coal Mining Company was taken over by the controlling coterie in the Ministry of Finance, upon an understanding as to its eventual return to the German interests involved. There seems to have been well-grounded cause of complaint against the Chinese authorities at Manchuli and at Heiho for having permitted or even assisted in supplying provisions to the German Bolshevik forces. The Military Governor of Chahar, while compelling an American company to discontinue its automobile service between Kalgan and Urga, nevertheless permitted an Austrian subject to operate a car; and several German agents were allowed to pass through his jurisdiction and were arrested only upon their reaching Mongolian territory. In a number of cases the Chinese Government, having arrested enemy agents upon the complaint of Allied authorities, took occasion to thwart the prosecution of them by insistence upon a strained construction of the treaties providing for the presence of foreign assessors in the Chinese courts at the trial of cases involving foreign interests. In one conspicuous instance, also, the chief of police of Tientsin refused to cooperate with the Allied authorities in raiding certain places in the former German concession where there was good reason to believe that apparatus for the forging of passports was stored by a German organization there.

While the Chinese Government may be judged remiss in these instances, it may be urged that its passivity was the result not of intention but of sheer weakness and of fear of antagonizing certain corrupt officials who were influential in the military clique temporarily controlling the Government. All activities of the Chinese Government in reference to the war had been placed more or less directly under the control of the War Participation Bureau, an organization created with apparently unlimited powers for the ostensible purpose of carrying out Chinese obligations in respect to military cooperation with Japan: but this bureau, placed under the control of General Hsü Shu-cheng, was used by him primarily as a means of furthering the interests of the tuchuns' clique. The forces and the funds at its disposal were to a large extent devoted to the civil war, and its activities and its control over the action of other organizations of the Government were to a large extent subordinated to the intrigues of the military faction.

B. FOREIGN

1. Relations with foreign countries

During the period under review, there was little of interest in the relations of the Chinese Government with foreign countries, save for such matters as were incidental to the prosecution of the campaign on the Siberian border (as outlined above) and the conclusion of a series of loans from the Nishihara banking group supported by the Japanese Government, which in spite of its political aspect may best be discussed under the heading of "Financial Information."

In July announcement was made to the effect that a treaty of amity had been concluded with Switzerland. This treaty had been signed in June at Tokyo by the Chinese and Swiss Ministers, and subsequently ratified by the Chinese Government; but its terms have been withheld from publication pending its ratification on the part of Switzerland.

In August it became known that the Chinese Government had arranged for the exchange of diplomatic representatives with the Vatican. Not only was this viewed by the French as an unfriendly disregard of their traditional claim to jurisdiction over Catholics in China, but in view of the indications of German influence in connection with the appointment of the nuncio selected to represent the Pope in China, several of the Legations united in persuading the Chinese Government to withdraw the *agrément* already given by it. The Vatican thereupon named another nuncio who proved likewise to be under suspicion of enemy connections; and the Chinese Government was then induced to take the attitude that the question of diplomatic representation between it and the Vatican should remain in abeyance until after the conclusion of the war.

A very perplexing question was raised in regard to the status of Poles who before the war had been of German or Austrian nationality. While it was felt that, in the interests of the Polish nation to be created hereafter, its citizens should be entitled to the privilege of extraterritorial jurisdiction in China, the difficulty of distinguishing between those who were and those who were not loyal to the Allied cause, and still more the difficulty of finding a legal basis for the exercise of such jurisdiction in their behalf by the representatives of the treaty powers, pending the establishment of the Polish Government, proved impossible of solution.

2. Attitude toward the United States and Americans

Among the Chinese people there was no alteration of the traditional feeling of friendship and trustfulness towards the United States; nor was there any diminution of this feeling on the part of the great majority of the officials of the Government. There were, however, several questions in which the coterie controlling the Ministries of Finance and Communications supported monopolies directly infringing American rights. One of these cases, to which reference has been made above, was that of a monopoly claimed in favor of a Chinese company for the operation of automobiles across the Gobi Desert between Kalgan and Urga; and although upon the advice of the Legation the American company concerned (the Mongolian Trading Company) consented to reserve the question of its conducting a common carrier service, and undertook to operate its course [cars?] only for the private business of the company, the Central Government supported the Tuchun of Chahar in forcibly preventing even such

operations. An attempt was also made to establish a so-called Chinese Trading Company which should have a preference in the furnishing of all supplies required by the Government, and a monopoly of the import and export of such articles as arms, grain, and other commodities requiring Government license.

C. ACTIVITIES OF ENEMY PROPAGANDA

As reported in the case of the previous quarter, there was no systematic enemy propaganda discoverable in China, although a number of enemy agents were from time to time apprehended, and although various German and Austrian residents were undoubtedly active in exerting personal influence upon individual Chinese officials of their acquaintance to obstruct or thwart the putting into operation of the various projects for the internment of enemy subjects and for the imposition of restrictions upon enemy trade. During the quarter, evidence was received that the *Hilfsaktion*, an organization of German and Austrian residents originally formed at Tientsin for the purpose of alleviating the distress of the prisoners in Siberia, in cooperation with the American Red Cross and other philanthropic agencies, was engaged in the counterfeiting of neutral passports and visas for the use of enemy agents; but it appears that the personal influence exercised upon the Chinese chief of police (in control of the former German Concession) by Mr. von Hanneken, a leading German resident, sufficed to induce that official to adopt dilatory tactics which prevented the carrying out of a raid upon the suspected premises.

It appears that the main effort of the Germans and Austrians who have been active in China has been to keep open so far as possible the opportunities for a revival of enemy trade and industry after the war.

II. ECONOMIC INFORMATION

A. ACTUAL ECONOMIC CONDITIONS

China was again fortunate, during the past quarter, in suffering none of the natural disasters, such as floods or drouths or bad harvests, which so often cause disproportionate misery and loss of life in this country of inadequate means of transportation, in which, moreover, the margin of bare subsistence is so small. The crops harvested during the quarter have been practically everywhere good or at least average.

These favorable natural conditions have however been offset by the disturbing effects of the civil war and by the alarming spread of brigandage. The methods of conducting the civil war have generally been, on the part of both Northern and Southern forces, ruthlessly indifferent to the welfare of the people in the area of hostilities. Then, too, the practice of enlisting bandits when soldiers were needed, and dismissing them when economy required, has spread the pest of outlawry broadcast among the provinces affected. It is therefore natural that banditry is (with an exception to be noted) most prevalent in the Provinces of Szechuan, Hunan, and Fukien, where operations have been at least nominally in progress; and that in those provinces it has in many cases been impossible to distinguish between the activities of bandits and the operations of the armed forces of North or South. Even in other provinces, however, lawlessness has grown to an unprecedented degree, apparently as the direct result of the disintegration of governmental authority which has been the corollary of the prostitution of civil power to the interests of the military leaders. But much the worst conditions of brigandage have come to prevail in the Province of Shantung. For this the blame is in large part due to the Chinese Government which permitted the western portion of the province to be overrun with the remnants of the rabble-following of Chang Hsün, upon the suppression of his abortive monarchical restoration movement in July 1917. But the evil is unquestionably encouraged and aggravated by the conditions incidental to Japan's continued military occupation of the line of the Shantung Railway which traverses the province east and west from Tsingtao to Tsinau, the provincial capital. Not only has the authority of the Chinese been weakened by the very existence of a separate and alien administration functioning along the line and in the principal cities, and frequently contesting Chinese jurisdiction; the line itself, under such conditions, furnishes an asylum in case of need, as well as a base of operations; and there is evidence of cases in which brigands have organized and equipped their bands within the railway zone, and having captured hostages or prisoners for ransom have either kept them on

the line or taken them along it to Tsingtao. There has, moreover, not unnaturally, been a considerable influx of rowdies and other undesirables from Japan, who have spread into the province and engaged in immoral or illegal trades, such as the exportation of salt and copper cash, and the importation of opium and morphine and arms, and in some instances have entered into close relations with brigand leaders.

As a result of such disturbed conditions, as well as of the financial straits of the Government, no new railway enterprises have been undertaken, if we except the Japanese projects in Manchuria, to which more detailed reference will be made hereafter.

B. ATTITUDE TOWARDS THE EMBARGO

There has been during this quarter no substantial change from the attitude of acquiescence indicated in the Legation's report for the previous quarter. There have, however, been occasional intimations of a feeling among the Chinese that in its restrictions upon imports our Government had not been quite so considerate and liberal towards the interests of Chinese as it had been towards Japanese industries.

III. COMMERCIAL INFORMATION

A. CONSTRUCTION OF SHIPPING

No ocean-going vessels were constructed in China. A contract is understood to have been concluded in the United States in August, however, between the Shipping Board and a representative of the Kiangnan Dockyard of Shanghai for the construction of three vessels of 10,000 tons each, and a further tonnage of 30,000 if required. In order to build these vessels, which are of considerably greater tonnage than this yard has hitherto undertaken, it has been necessary to construct new slipways, the work on which has been promptly commenced and pushed forward rapidly.

B. LOSSES OF SHIPPING

The only shipping loss to record for this period in connection with China is that of a small British coasting steamer, the *Sungkhang*, in a collision off Swatow on August 21 last.

C. DEVELOPMENT OF FOREIGN TRADE

As in the previous quarter, foreign trade remained almost stagnant except for the constantly growing trade with Japan. In that connection it is to be reported that, following the rice riots in Japan, an arrangement was made (of which, however, no details have been made public) by which the Government authorized an exception from the embargo, established by the treaties, to enable rice to be exported from Kiangsu and other Lower Yangtze provinces for the relief of the scarcity in Japan. The consequent increase of the price of that staple food in those provinces was a matter of some complaint, though fortunately not of serious character.

IV. FINANCIAL INFORMATION¹

A. LOANS, DOMESTIC AND FOREIGN

No domestic loans were put upon the market during the period under review, except the fifth short-term loan of the Peking-Suiyuan Railway for development purposes. Subscriptions to the bonds of this loan were open from July 1 to September 30; the terms were as follows: Amount, \$4,000,000 (Peking currency); issue price, par; interest, 9 per cent; amortization by lot in four annual instalments, at the end of each year, 1909-22.

This quarter was notable for the extraordinary series of loans negotiated with the Japanese interests represented by Mr. Nishihara, to which reference has been made above. These included the following:

Kirin and Heilungkiang forestry loan:² date of conclusion unknown, but probably in July; amount, yen 30,000,000; term 10 years; interest 7½ per

¹ See "Loan Negotiations," post, p. 137.

² See "Kirin and Heilungkiang Forestry and Mines Loan," post, p. 162.

cent; security, Government-owned forests and gold mines in the two provinces, together with the Government's revenues therefrom. Kirin-Hueining Railway loan: preliminary contract signed June 18, providing for the immediate advance of yen 10,000,000, and stipulating for the conclusion of a final agreement for an amount sufficient to take up this advance and to pay for the construction of the line, upon the following terms: interest, 5 per cent; term 40 years; security, the railway itself (the construction of which is to begin upon signature of the final agreement).

In addition to these loans, which were actually concluded during this quarter, the Nishihara interests were also negotiating for the construction of five railways in Manchuria and in Eastern Mongolia and of two railways in Shantung, although these negotiations were not concluded until later. Negotiations were also carried on for a loan (understood to be for yen 100,000,000) for the development of the steel and iron industry to [of?] China. A political loan of yen 2,000,000, at 8 per cent, secured on the wine and tobacco revenues, was also under negotiation; furthermore, a credit of yen 80,000,000 to be extended by the Nishihara banks in connection with the proposal for the establishment of a gold currency system. It was also reliably reported that a military loan for the financing of the expeditions in Manchuria and Siberia was concluded; but no exact details as to the amount or other conditions are thus far obtainable.

The Kirin forestry loan created intense indignation in the two provinces concerned, whose people felt that the Government was literally selling their resources and encouraging the encroachments of Japan, with no idea of developing the lumbering or mining industries, but solely for the purpose of obtaining immediate funds for military expenses. This feeling was intensified by the publication in the Peking press of a memorandum, intended to be secret, with which this contract was submitted to the Cabinet by Mr. Ts'ao Ju-lin, baldly stating that the Government needed the money and that to get it he had been compelled to adopt the subterfuge of making a loan for nominally industrial purposes from the Nishihara group, inasmuch as the avowal of the fact that the money was for political purposes would lead to difficulties with the consortium and with the foreign Governments whose nationals participated therein. The authenticity of the memorandum thus disclosed was never denied; and the acknowledgment thus made in it by the Minister of Finance was confirmed by documents discovered by rioters who raided the offices of the local commissioner in the provincial capital of Kirin.

One of the terms of the forestry loan was that the Japanese should have a priority in the event of future loans for the development of forests and gold mines of the two provinces. The terms of the agreement as published in the press were drawn to the attention of the Ministry of Finance by the Legation with a request for an authentic text of the document by which the American Government might judge whether it infringed the right of equal commercial opportunity. The Ministry of Finance refused to communicate the text, but quoted certain provisions which clearly established the priority in favor of Japanese interests, and maintained the right of the Chinese Government to grant it. This contention, if maintained, would go much further towards restricting equality of opportunity in China than did the 1909 agreement concerning mining in Manchuria, in respect to which both the Japanese and the Chinese Governments gave assurances that the rights claimed were not general, but such as related to specific mining areas selected for development.

The Kirin-Hueining Railway¹ project is one that has of course been in prospect since Japan first obtained the right of building the branch line from Changchun to Kirin. This extension from Kirin to the Korean border would connect with a railway already built from the port of Chyongjin, on the northern coast of Korea. A line connecting this point with the main Korean system at Wonsan has long been marked as projected on the maps published by the Japanese Government General of Korea. Although the country through which the Kirin-Hueining line would pass is almost unknown, there is some reason to believe that the railway would have a commercial, as well as a strategic value. It is to be regretted, however, that this otherwise legitimate project is saddled with the advance of yen 10,000,000, which has already been spent for military purposes.

The negotiations for five railways in Manchuria were at the time understood to relate to the five lines (Ssupingkai-Chengchiatun-Taonan, Changchun-Taonan,

¹ See "Railway Concessions," *post*, p. 199.

Jehol-Taonan, Kaiyuan-Hailung, and Hailung-Kirin) for which concessions were granted to Japanese interests by a secret exchange of notes in October 1913. From a subsequent statement made by the Japanese Ministry of Finance, it appears, however, that the negotiations also included a line from the Jehol-Taonan railway to the sea (presumably at Hulutao) which is a wholly new project and which is perhaps in conflict with the existing rights of British interests in respect to branch lines of the Peking-Mukden Railway. The railway lines in Shantung are understood to include an extension of the Shantung Railway from Tsinanfu to Shantefu on the Peking-Hankow Railway, and a line from Kaomi (near Tsingtao) to the junction of the Tientsin-Pukow and Lung-Hai railways, at Hsichowfu. The construction of these two lines had been conceded to German interests by a secret exchange of notes in December 1913; and it is to be supposed that the Nishihara group is seeking to obtain a reversion of those German rights in Shantung Province.

No reliable information is thus far obtainable in regard to the negotiations for the loan to be used in establishing the Chinese iron and steel industries; but it is generally understood that the plan involves placing under Japanese control the iron mines of Fenghuangshan and Molingkuan.

It is still unknown whether or not the proposed credit of yen 80,000,000 to be extended by the Nishihara group for the establishment of a gold currency in China has actually been concluded; it appears certain that it was under negotiation, and that in spite of the denial of the Ministry of Finance, at least an agreement in principle had been reached, when, suddenly, on August 11, the Government promulgated regulations for the establishment of a currency bureau and for the issue of gold currency notes. Immediately upon publication of these regulations, the Ministry of Finance communicated them to the bankers' consortium, and proposed that they be made the basis of negotiations for the loan contemplated by the currency reform loan agreement of 1911, the option under which had been from time to time renewed so as to be in force until October 14, 1918. The proposal for the immediate establishment of a system of gold currency in China must be considered fantastic; the constant opinion of all financiers who have studied the complicated problem of Chinese finance has been that the unification of the multitudinous silver currencies is a necessary preliminary step. A memorandum published by the Minister of Finance made the project appear all the more fantastic inasmuch as it indicated that the currency notes to be issued by the Government would in practice be redeemable only in produce of the country where the gold credit was held, i. e., apparently in Japan. It was felt by the consortium bankers and by the interested Legations that the proposal to negotiate for a loan on the basis of so unsound a project of currency reform was in fact a mere device by which the Minister of Finance hoped to tempt them into sacrificing their option by a refusal to negotiate on such a basis, thus leaving himself free to negotiate with the Nishihara interests. Protest was promptly made by the four Legations to the Chinese Government against its having thus adopted and promulgated the regulations in disregard of the right of the consortium to be consulted in reference to any such variation from the plan of currency reform proposed about a year previously by Mr. Liang Ch'i-ch'ao when Minister of Finance, a plan which the bankers had indicated their willingness to accept as a basis for the proposed currency loan, subject to certain further information concerning details, which was still awaited. In this protest the Japanese Legation joined with the others, adding a further protest against the adoption of so radical a measure without having consulted with Baron Sakatani, whom the Chinese Government was stated to have undertaken to engage as financial adviser.

Upon receiving from the Ministry of Finance an uncompromising reply and a request to take up negotiations on the basis of the regulations, the bankers appear to have become alarmed lest an unyielding insistence upon the protest might lead the Ministry to refuse any renewal of their option upon its expiration in October. They therefore induced the four Legations directly interested (British, French, Japanese, and Russian) to reply that their respective groups in the consortium would consent to discuss the question with the Minister of Finance. This effort to evade the issue until a renewal of the option had been obtained proved most unfortunate. It was interpreted as an indication of weakness; and not only were the Minister of Finance and his coterie induced to assume an arrogant attitude towards the banks and towards the Legations interested; the Minister himself (to carry the account somewhat into the subsequent quarter) had the effrontery to inform the Cabinet that the four Ministers had withdrawn their objections to the gold currency scheme and even expressed themselves as gratified with it, a mis-

representation which led to considerable difficulties before the renewal of the option could be arranged. In consequence of the withdrawal of the American group (in 1913) from participation with the other members of the consortium in business under the currency reform and reorganization loan agreements, there was no American contractual right involved; but our Government took occasion, during these discussions, to make clear once more the position it had taken a year previously, that apart from any question of the contractual rights of its nationals, the whole history of the question of currency reform in China has given the American Government a right to be consulted in reference to any solution of that problem.

The rumor that a political loan was being negotiated on the security of the wine and tobacco revenues occasioned some apprehension in regard to a direct contractual right of Americans, as the loan made by the Chicago Continental and Commercial Bank in 1916 was secured upon that revenue, and negotiations carried on during 1917 by the representative of the Chicago bank had given it a conditional option upon a priority in respect to the use of that revenue as security for further loans. The apprehension felt in regard to these rights was increased by the unwillingness of the Minister of Finance to confirm in writing an oral promise that the Chicago bank would be first consulted before the hypothecation of these revenues for other loans, and still more by his ultimately stating that the bank had waived all rights by breaking off the negotiations last year, whereas the fact was that the Chinese negotiators had asked the bank's representative to allow them time to carry out certain preliminary arrangements, before proceeding further in the matter. It is not believed, however, that the rights of the Chicago bank have been compromised, as the rumors of the conclusion of the loan on that security have not been verified.

A loan made in April last by the Chosen Bank to the Provincial Government of Fengtien (Mukden) had during this quarter a most demoralizing effect upon foreign trade in southern Manchuria. The finances of the province have for some years been in indescribable confusion, both governmental and private Chinese banks having issued irredeemable paper currencies, on the basis of the "small-coin dollar", which have greatly depreciated. From time to time loans have been made from the Japanese banks to redeem these issues, under conditions which encouraged speculation and facilitated the exportation of such actual silver currency as was in circulation. The loan of last April for yen 3,000,000 (issue price, 95; interest, 6½ per cent; security, the Chinese portion of the shares in the Sino-Japanese coal mines at Penhsihu) was for the purpose of such redemption, and an accompanying agreement obligated the provincial treasury to guarantee the redemption of depreciated small-coin notes for Japanese holders at a rate averaging perhaps as much as 50 per cent better than the market rate. The effect of this enormous advantage in favor of Japanese traders was to drive out of competition the branches of other foreign firms in the interior, where only the small-coin money is current, and to force them to the use of the Japanese gold yen in the towns along the railway where that currency has been largely introduced by the Bank of Chosen itself. Protest to the Chinese Government elicited only a denial by the provincial authorities of the existence of this entirely well-known arrangement. Both the American and British Governments were compelled to notify the Chinese Government that they must hold it responsible in damages for the losses of their nationals in consequence of this discriminatory arrangement; but even the payment of all direct claims on this score could scarcely compensate for the far-reaching effect of making southern Manchuria almost a closed field for foreign commercial enterprise.

B. FLUCTUATIONS OF EXCHANGE

Throughout the period under review, the price of silver continued to rise, with an intensification of the results indicated in the last quarterly report. The following table furnished by the International Banking Corporation gives, in Mexican (Peiyang) dollars, the highest and lowest buying rates of \$100 gold during each of the three months, indicating the date of each quotation:

	Highest	Lowest
July:	121.63 (July 3)	118.97 (July 31)
August:	118.97 (August 1)	111.49 (August 30)
September:	111.44 (September 2)	101.28 (September 20)

Respectfully submitted,

J. V. A. MACMURRAY

File No. 893.00/2928

The Minister in China (Reinsch) to the Secretary of State

No. 2354

PEKING, December 2, 1918.

SIR: In connection with my despatch (No. 2337)¹ reporting on the representations made in favor of reconciliation in China, I have the honor to enclose copies of the *aide-mémoire* as it was finally adopted by the Ministers and presented to the President of the Republic and the Southern leaders. The only change from the version transmitted to you is the insertion near the middle of the second paragraph of the clause, "while refraining from taking any step which might obstruct peace." This clause was inserted at my suggestion in order to give a hint that the taking, by either party, of action which by the other would be considered a fatal obstruction to peace ought to be avoided; such as, for instance, the election of a Northern militarist as Vice President would have been.

The *aide-mémoire* was presented to His Excellency, the President, at 4 o'clock this afternoon. The exact date and hour of the presentation in Canton is not yet known to me. It is, however, intended to be as nearly contemporaneous with the action here as is possible.

I have [etc.]

PAUL S. REINSCH

[Enclosure]

AIDE-MÉMOIRE

It is with grave concern that the Governments of France, Great Britain, Italy, Japan and the United States have witnessed the continued civil strife which during the past two years has divided this country. This unhappy division has proved no less harmful to foreign interests than disastrous to the welfare of China itself. The consequent unrest has been an encouragement to the enemy, and during the supreme crisis of the war has hampered the effective cooperation of China with the Allies: and now that that crisis is past and the nations look forward to the hope of effecting some organization of the world for the realization of peace and justice among all peoples, the disunion still prevailing in China makes their task more difficult.

The associated Governments of France, Great Britain, Italy, Japan and the United States have observed with hopefulness the steps already taken by the President of the Republic with a view to the settlement of the civil strife, and have been happy to believe that the attitude of the Southern leaders indicated no less a desire on their part to arrive at an amicable adjustment of differences. These Governments have therefore taken occasion to express the sympathy and the hopefulness with which they regard these indications of a desire on the part of both the Peking Government and the leaders of the Southern party to set aside all considerations of merely personal sentiment and of legal technicality, and while refraining from taking any step which might obstruct peace to seek without delay by frank conference some means of attaining a reconciliation, upon a basis of law and of devotion to the interests of the Chinese nation, such as is necessary to assure to China peace and unity within its borders.

In taking occasion to express their earnest sympathy with the efforts of both sides to achieve a solution of the difficulties that have hitherto divided them, the Governments of France, Great Britain, Italy, Japan and the United States desire to make clear that in so doing they have in contemplation no ulterior plan of intervention and no desire to control or influence the particular terms of adjustment, which must remain for the Chinese themselves to arrange. They desire only to lend what encouragement they can to the aspirations and efforts of both parties for a reconciliation and a reunion which will enable to [the?] Chinese nation to bear the more worthily of its own traditions its part in the reconstruction which the nations of the world are now hoping to attain.

¹ Not printed.

File No. 893.00/2900

The Acting Secretary of State to the Minister in China (Reinsch)

[Telegram]

WASHINGTON, December 5, 1918, 8 p. m.

The Japanese Embassy informs the Department that the Peking authorities have approached Japanese bankers for a loan for the disbandment of troops, but that the Japanese Government is not disposed to sanction any loan for that purpose lest it should lead to misunderstanding with the Southern leaders. The Chinese authorities stated however that American bankers were ready to make such loan if Japan did not. You will of course discourage any such proposal, if made, and be guided by the Department's telegram of November 16, 6 p. m., with which the Japanese Government is in accord.

POLK

File No. 893.00/2948

The Minister in China (Reinsch) to the Secretary of State

[Extract]

No. 2424

PEKING, December 31, 1918.

SIR: I have the honor to enclose the following despatches dealing with the progress of reconciliation in China.¹ . . .

The effects of the joint *démarche* of the five powers have been good in as far as predisposing the Northern military party to give President Hsü Shih-ch'ang an opportunity to carry out his conciliation policy. A peace delegation of ten members has been appointed by the Government, which is now proceeding to Nanking. The Southern authorities have not as yet appointed their delegation although it is generally understood that Mr. Tong Shao-yi will act as chief delegate, that position having been offered him by the Military Government. The South is raising difficulties on two points: (a) the place of meeting, which they desire to be at Shanghai rather than at Nanking (the place suggested by the Chinese Government and favored by Governor Li Shun, who [h]as hitherto acted as chief mediator); (b) the South claims that Northern military movements in Shensi and Fukien Provinces are contrary to the armistice; whereas the Chinese Government charges with some justice that actual advances have been attempted and made in these provinces by military leaders connected with the South in charge either of regular troops or of irregular contingents, qualified as bandits.

Reports are now being awaited from the Northern delegation, which is under the chairmanship of Mr. Chu Ch'i-ch'ien, ex-Minister of the Interior. Although there are many obstacles to peace and although the militarists on both sides, notwithstanding public declarations made, seem still to be receiving financial assistance from outside sources, yet the general feeling is that a compromise will be effected at an early date.

I have [etc.]

PAUL S. REINSCH

¹ Not printed.

File No. 893.00/2960

The Consul at Canton (Pontius) to the Minister in China (Reinsch)

No. 39

CANTON, December 31, 1918.

SIR: For the information of the Legation I have the honor to enclose copy of a telegram dispatched by the local Parliament to the United States Congress emphasizing once more the aims of the Constitutionalists and complaining at the recent breach of faith on the part of the North in dispatching additional troops to the vicinity of points occupied by the South.

Certain members of the local Parliament are constantly agitating the question of intervention by the President of the United States. Intervention would be better than arbitration they contend as the consent of the North need not be sought for in that eventuality. Practically all of the local dignitaries favor arbitration by the President of the United States, and it is reported it is quite likely that a telegram will be dispatched to the United States Congress requesting that body to recommend such action.

I have [etc.]

ALBERT W. PONTIUS

[Enclosure]

*The Canton Parliament to the Congress of the United States**Canton, China.*

THE PRESIDING OFFICERS AND MEMBERS OF THE CONGRESS,
Washington.

It is with gratitude that the people of China have learned that the five associated powers of France, Great Britain, Italy, Japan and the United States, have, by their memorandum recently presented to the Government at Peking and the Constitutionalists' Government at Canton, expressed their hope for an early settlement of the internal strife in our country. The impartial attitude of the associated powers toward the two contending parties is well manifested in the memorandum in which it was stated that they have in contemplation no ulterior plan of intervention and no desire to control or influence particular terms of adjustment which must remain for Chinese themselves to arrange. The Constitutionalists' Government at Canton has now entered peace negotiations with the military leaders of the North, for, as stated in the memorandum, the unhappy division of the country has proved not only disastrous to the welfare of China itself, but it also makes more difficult the great task of world reconstruction. However, we must make it clear to the Government and people of your country that our present civil strife is the legal against the illegal and the right against the wrong. It is intolerable that the supreme law of the land is being so wilfully violated by a handful of militarists, whose ulterior object is to enforce despotism by means of militarism. The sole object of the Constitutionalists is nothing but devotion to the interests of the Chinese people and for securing a peace upon the basis of law, and there is not the least personal sentiment or contention merely for the sake of legal technicality. The Republic of China is existing upon the Provisional Constitution, from which the National Assembly derives its authority, and it was for the upholding of this Provisional Constitution the Constitutionalists have taken up arms against the militarists.

It will be remembered that when Yuan Shih-k'ai declared himself Emperor, the Provisional Constitution had been for the first time violated and the National Assembly by force dissolved, and when the monarchical restoration movement instigated by the militarists broke out, then it was for the second time [that] the Provisional Constitution [was] violated and the National Assembly dissolved. It was the militarists and the bureaucratic class who were directly responsible for all these law-breaking movements. [That] the Northern milita-

rists are not to be trusted is again proved by the fact that since an armistice has been recently declared, the Peking authority has continued sending troops to attack the Constitutional force in the Provinces of Shensi and Fukien, under the pretext of suppressing the bandits. The Northern leader, Ch'ien Neng-hsün, even admitted dispatching troops to Shensi under the command of Hsü Lan-chow, and troops to Fukien under the command of Wan Yung-chuen, after the declaration of armistice. Seeing that the militarists are not to be trusted even on their solemn oath, the people of China realize more and more that the object of the Constitutionalists' movement for securing a permanent peace and restoring the effect of law is the only solution of the national issue now at stake. But, unless the National Assembly is assured perfect freedom to exercise its legitimate functions, there is no hope for restoring the effect of law, and unless the law is enforced there is no hope for permanent peace, and it is for upholding the law, the people of China have been struggling under the most difficult circumstances. Knowing that your country is always ready to uphold the right, as such spirit has been well manifested through your friendly memorandum, we, therefore, desire to make it clear to you the real cause of our present strife.

On behalf of the National Assembly of the Republic of China.

LIN SUN
President of the Senate
WU CHING-LIEN
Speaker of the House of Representatives

LOAN NEGOTIATIONS

Currency Reorganization and Loan and Currency Reform¹

File No. 893.51/1857

The Ambassador in Great Britain (Page) to the Secretary of State
[Telegram]

LONDON, January 1, 1918, 2 p. m.

8116. My 8038, December 21, 11 p. m.² I have just received the following note:

FOREIGN OFFICE, December 31, 1917.

I have the honour to inform you that His Majesty's Government have given their careful and sympathetic consideration to note which you were good enough to address to me on 24th November stating that the United States Government were contemplating formation of American group to participate in projected loan of twenty million pounds to China for currency reform purposes and urging participation of British group in proposed initial advance of two million pounds which existing international consortium has agreed should be made to Chinese Government by Japanese group. The Lords Commissioners of His Majesty's Treasury whose consent is required under existing enactments to all financial operations by British subjects involving new issues of capital and to whom question of participation of British groups in above-mentioned initial advance was, therefore, referred, have arrived at decision that in considering distribution of financial resources of country, it is incumbent on them to give precedence to immediate demands occasioned by war over post-bellum interests. As represented by proposed participation, they state that in their opinion effect on these resources of proposed participation would be to weaken *pro tanto* the capacity of country to meet immediate war demands and accordingly they regret that they are unable to give their consent to such participation by British groups.

His Majesty's Government are nevertheless very anxious to facilitate in every way reentry of an American group into international consortium and

¹Continued from *Foreign Relations*, 1917, p. 114.

²*Op. cit.*, p. 159.

eventual participation of group when organised in definite loan. As I understand, however, from your excellency that the United States Government would wish to make eventual participation of American group in loan conditional upon participation of British group in advance and as decision of His Majesty's Treasury unfortunately renders course suggested in your excellency's note impracticable, I have the honour to suggest that nominal participation of British group in advance, if desired by the United States Government for political reasons, might be assured by an arrangement between American and British groups whereby former would agree to carry latter's share of advance till after war. It is suggested as a practical means for giving effect to this proposal that American groups should be informed that if they are prepared to advance two thirds, the Japanese advancing the remaining third of two million pounds, namely, £1,333,333 6s. 8d., in exchange for Chinese Treasury bills for an equivalent amount, British groups would be prepared to accept nominal participation of half of that amount, namely, £666,666 13s. 4d., and to guarantee repayment of that share if not already repaid by Chinese Government within one year after war.

I have to request your excellency to be so good as to submit foregoing proposal to the United States Government and to suggest that if it meets with their approval, the most convenient method of ensuring its adoption would be for them to put it forward as their own and to address it officially to His Majesty's Government for communication to the British group. I may remind your excellency that in view of fact that British group declined participation in proposed advance when question was originally raised, consent of Japanese groups will have to be obtained to participation now contemplated and I should be greatly obliged if you would enquire whether the United States Government consider that British group should approach Japanese group in matter or whether it would in their opinion be preferable that they should themselves inform Japanese Government of arrangement come to, having regard to their decision to constitute an American group with view to eventual participation in loan.

In connexion with suggestion contained in your note, that in event of British participation in initial advance being found practical, American group when organized might entertain a proposition to carry temporarily British group's future participation in loan, I desire to point out to your excellency that if American group is readmitted to consortium, it will necessarily be bound by all existing bankers' agreements in respect to Chinese loan transactions and that terms of Article 4 of sextuple group agreement of 18th June 1912, governing question of so-called residuary participation in reorganisation loan, of which projected loan may be considered to be supplementary issue, would appear to preclude British and American groups from coming to any private arrangement between themselves such as is suggested in your note. It is laid down in that agreement that groups which actually take part in issue of loan are entitled to decide among themselves and without reference to group or groups which do not participate in issue as to which one or more of them shall issue residuary participation and that in default of any such decision they shall issue same equally between them. While therefore His Majesty's Government are grateful for suggestion of which they will avail themselves in case of necessity, it is evident that question of residuary participation will necessitate a preliminary discussion with Japanese group. Finally, it may be of interest to United States Government to know that according to our last advices from Peking, Japanese group has decided to defer making proposed advance on account of uncertainty of political situation in China and until a stable government is in sight. It is not anticipated, however, that project will be abandoned altogether.

I have [etc.]

PAGE

The Secretary of State to the Minister in China (Reinsch)

[Telegram]

WASHINGTON, January 5, 1918, 2 p. m.

British Government informs Department through Embassy at London that latest advices from Peking indicate that "Japanese

group has decided to defer making proposed advance on account of uncertainty of political situation in China and until a stable government is in sight." Telegraph whether this report is correct.

LANSING

File No. 893.51/1861

The Minister in China (Reinsch) to the Secretary of State
[Telegram]

PEKING, January 7, 1918, noon.

Your January 5, 2 p. m. British Government misinformed. Loan signed yesterday.

REINSCH

The Secretary of State to the Minister in China (Reinsch)
[Telegram]

WASHINGTON, January 8, 1918, 6 p. m.

Your January 7, noon. What is amount of advance? Newspapers here report that Japan has made a loan of fifty million dollars.

LANSING

The Secretary of State to the Ambassador in France (Sharp)
[Telegram]

WASHINGTON, January 9, 1918, 3 p. m.

3050. Your 2930, December 21, 10 p. m.¹ Department informed by Legation at Peking on January 7 that Japanese signed loan agreement January 6.

LANSING

The Secretary of State to the Ambassador in Great Britain (Page)
[Telegram]

WASHINGTON, January 9, 1918, 4 p. m.

6202. Your January 1, 2 p. m., No. 8116. The report communicated by Foreign Office December 31 to effect that Japanese group had decided to defer the making of proposed advance is proved incorrect. American Legation at Peking January 7 informs Department that loan was signed January 6.

LANSING

File No. 893.51/1862

The Minister in China (Reinsch) to the Secretary of State
[Telegram]

PEKING, January 10, 1918, noon.

Your January 8, 6 p. m. Amount of advance ten million yen.

REINSCH

¹ *Foreign Relations, 1917*, p. 158.

File No. 893.51/1865

The Ambassador in Great Britain (Page) to the Secretary of State

[Telegram]

LONDON, January 14, 1918, 3 p. m.

8258. My telegram 8116, January 1, 2 p. m. Following note dated January 12 received from Foreign Office:

With reference to my note of the 31st ultimo, relative to the projected issue of a second or supplementary reorganization loan to China for twenty million pounds for currency reform purposes, and to the proposed advance of two million pounds out of that loan for which the Chinese Government have recently applied, I have the honour to state that I learn from a telegram received from His Majesty's Minister at Peking that the representative of the Japanese group in the international consortium signed an agreement on the 6th instant with the Chinese Ministry of Finance for a second advance of one million pounds and not two million pounds which was the amount originally asked for by the Chinese Government.

I may remind your excellency that original advance of ten million yen was made some months ago to the Chinese Government by the Japanese group independently and that this accounts for the description of the transaction now under discussion as the second advance on the supplementary reorganization loan.

It appears to me that the step which the Japanese group has now taken need not necessarily prevent the realization of the scheme which I outlined in my above-mentioned note, supposing that the proposal commends itself to the Government of the United States, as it would still appear feasible for the British group to participate nominally in the advance provided that the American group are willing to find the other one million pounds to enable it to do so under an arrangement whereby the British group will guarantee the repayment of their share, namely, five hundred thousand pounds, if not already repaid by the Chinese Government within year after the war.

The consent of the Japanese group and of the Japanese Government will doubtless have to be obtained to this fresh proposal but in view of the fact that American participation in the loan was suggested originally by the Japanese, and would still appear to be desired by them, it seems not improbable that if the United States Government were to intimate to the Japanese Government that the eventual participation of an American group in the projected loan must be made conditional on its participation in the advance, having regard to the fact that that advance is secured on the same revenues as the loan itself, no objection would be raised by the Japanese if it were suggested that the remaining one million pounds should be provided in the manner described above. I accordingly have to request your excellency to be so good as to submit this suggestion to the United States Government.

PAGE

File No. 893.51/1869

The Secretary of the Treasury (McAdoo) to the Secretary of State

WASHINGTON, January 21, 1918.

DEAR MR. SECRETARY: I have been giving careful consideration to the question of the proposed currency loan to China, and on receipt of your communication of January 15,¹ enclosing copy of a telegram from Peking, dated January 14, was about to write you enclosing two memoranda prepared by Mr. Albert Strauss, and comprising accounts of two interviews which he had with Baron Megata on December 27, 1917, and January 8, 1918.¹ In my proposed communication, I had intended to point out that there is no authority in law for

¹ Not printed.

such a loan by the United States Government itself, and that for the same reasons that are so well pointed out in a communication of the British Foreign Office embodied in Ambassador Page's telegram of January 1, No. 8116, it was inadvisable, and probably in any event impossible, for any private group in the United States to participate in this business at the present time.

You will observe in his interview with Mr. Strauss, Baron Megata intimated that the matter did not require immediate decision. This same point of view is indicated in the communication from the British Foreign Office above referred to, and taken together with the telegram of January 14, from Peking, seems to lead to the conclusion that no immediate decision in this matter is required.

Appreciating, as I do, your desire that at some time and in some form this business should be consummated, I welcome the opportunity of deferring a decision at the present time, feeling as I do that if a decision is now insisted on it must, from the point of view of the Treasury, be against the proposed transaction.

Cordially yours,

W. G. McADOO

File No. 893.51/1870

The Ambassador in France (Sharp) to the Secretary of State

[Telegram]

PARIS, January 25, 1918, 11 p. m.

3096. My 2930, December 21, 10 p. m.¹ Mr. Pichon now confirms what he previously wrote as contained in my said telegram adding that at his request the French Minister of Finance has accorded his approval of the participation of the French group in the loan. On the other hand he states that the English group was unable to overcome the objection of the British Minister of Finance and that its abstention from participation in the loan has influenced the French group, which cannot be expected to act alone in this undertaking.

Mr. Pichon adds that being convinced of the great interest presented by the return of the American group to the international consortium he has requested the French Ambassador at London to endeavor to have the British Government change its decision. His action, he states, to obtain a satisfactory solution would be greatly aided if the organization of the American group could now be considered as an accomplished fact.

SHARP

File No. 893.51/1882

The Minister in China (Reinsch) to the Secretary of State

No. 1886

PEKING, February 7, 1918.

SIR: I have the honor to report that when it was currently stated in the Japanese and Chinese press that Baron Sakatani, formerly

¹ *Foreign Relations, 1917*, p. 158.

Japanese Minister of Finance, had been appointed as adviser to the Chinese Government on currency reform, I asked the Chinese Secretary to make inquiry of the Minister of Finance concerning this matter. A memorandum by the Chinese Secretary reporting his conversation with the Minister of Finance is herewith enclosed.¹

According to this reply, Baron Sakatani, although coming to China, has not yet been appointed to any office. He is coming for a conference, and should he be appointed he would have the position of general adviser to the President in financial matters. Though this may be the present situation, it is probable that the expectation is entertained that Baron Sakatani once on the ground, will surely be employed as financial adviser, and that thereupon it will be suggested, when the currency loan is negotiated, that he should act as adviser on the currency. As a matter of fact, the Japanese papers reported, upon the occasion of Baron Sakatani's departure from Japan for China, interviews attributed to him in which he discussed the plans of the Japanese Government with respect to currency reform in China.

At my direction, the Chinese Secretary called the attention of the Minister of Finance to the existing currency loan option and the continuing interest therein on the part of the American Government.

It is highly desirable from every point of view, and necessary for the protection of the American interests in the currency loan, that before the date of the expiration of the present option, April 15, arrangements for American participation should have been completed.

I have [etc.]

PAUL S. REINSCH

File No. 893.51/1880

The Minister in China (Reinsch) to the Secretary of State

No. 1878

PEKING, February 11, 1918.

SIR: I have the honor to enclose copies of a translation of an agreement for a second advance of yen 10,000,000, drawn up on January 6, 1918,¹ between the Chinese Government and the Yokohama Specie Bank, together with a statement of advances made by the Bank of China to the Chinese Government.

I have [etc.]

PAUL S. REINSCH

File No. 893.51/1873

The French Ambassador (Jusserand) to the Secretary of State

[Translation—Extract]

WASHINGTON, February 15, 1918.

MR. SECRETARY OF STATE: My Government informs me that the British Government has proposed to the Government of the United States an arrangement intended to secure the English group's participation in the loan that is to be made to China. The said participation would be nominal but made effective by repaying to the

¹ Not printed.

American group such advance as it may have made for the account of the English group.

Referring to my communications of December 31, 1917,¹ and January 11 last,² I have the honor, by direction of the Minister of Foreign Affairs of the Republic, to apprise your excellency that the French group is disposed, for its part, to accept that arrangement with the reservation, however, that the American group will not be reimbursed until circumstances will permit of the flotation of Chinese loans in the European markets.

In this connection I am instructed to remind your excellency of the favorable view taken by my Government of the organization of an American group interested in Chinese affairs and participating in the loans of that country. The Government of the Republic deems it altogether desirable that such a group be organized as quickly as possible and take part on its own account as well as on that of French and English groups in financial transactions. . . .

Be pleased [etc.]

JUSSERAND

File No. 893.51/1837

The Secretary of State to the French Ambassador (Jusserand)

No. 2074

WASHINGTON, February 16, 1918.

EXCELLENCY: Adverting to your excellency's note of November 19, 1917,² communicating the views of your Government touching the negotiations for a loan to China for the purposes of monetary reform, I note that the representative at Peking of the French Government is reported as having reason to believe that the Japanese Government had informed China that the participation of Americans in the loan would not be objected to by Japan, and that your excellency's Government was of opinion that such a declaration by Japan would but make it more desirable to designate an American group to join in the contemplated transaction.

I scarcely need to inform your excellency that the American Government values very highly the opinion of the French Government. The matter of the currency reform loan to China is one to which the American Government is giving careful consideration. It has regretted to note that there is some doubt about the willingness of the French group to share in the enterprise.

The American Ambassador in Paris was instructed in December last to represent to the Government of France the desire of this Government that the French and British groups concerned in the matter should participate in the then proposed advance by the Japanese banks of two million pounds. Your excellency's Government replied, as you are doubtless aware, that it shared the views of the American Government and had requested French financial groups interested in Chinese affairs to submit a proposition for participation in the proposed advance.

¹ Not printed.

² *Foreign Relations*, 1917, p. 154.

More recently, however, on January 25, the American Ambassador in Paris reported that M. Pichon, while confirming his previous statement that the French Minister of Finance had given his approval to participation by the French group, had stated that the British group had been unable to overcome the objections of the Finance Minister of the British Government to participation by the British group and that the abstention of that group, in the opinion of M. Pichon, would make it unlikely that the French group would decide to share in the enterprise. M. Pichon stated further that he had requested the French Ambassador in London to endeavor to have the British Government change its decision. Up to the present, however, the Department of State has been uninformed of the result of the representations made by the French Ambassador in London.

Pending further information as to French and British participation in the proposed loan the American Government has taken no decision in regard to the formation of an American group.

Accept [etc.]

ROBERT LANSING

File No. 893.51/1873

The Acting Secretary of State to the French Ambassador (Jusserand)

No. 2085

WASHINGTON, March 2, 1918.

EXCELLENCY: I have the honor to acknowledge the receipt of your excellency's note of February 15, 1918, relating to the proposed participation by the French group in a loan to China for currency reform in which there is communicated to me the information that the French group is disposed on its part to accept the proposed arrangement whereby a portion of that group's participation would be advanced by the American group but with the reservation that no reimbursement would be made until circumstances should permit the flotation of Chinese loans in European markets.

I note that in the opinion of the Government of France it is deemed desirable that an American group be organized as soon as possible and take part on its own account as well as that of the French and English groups in the contemplated transaction.

In reply I have to assure your excellency that the American Government is greatly interested in the proposed reform of the currency in China and is hoping that the way will be opened for the participation of an American group in the proposed loan for that purpose. The possibility of such participation is now a matter under consideration by the United States Government.

I am interested to learn from your excellency's note that the British group is disposed to accept participation under an arrangement for an advance by the American group of a portion of the British share to be repaid later. The latest information received by the Department of State, previous to your note under acknowledgment, was to the effect that the British Minister of Finance was unwilling to have the British group participate. The Department was informed also that if such participation could be agreed to by the British group it would first be necessary under the intergroup agreement to obtain the consent of the Japanese group to an advance by the American group of the British share.

So soon as a definite decision is made by the United States Government as to the advisability of allowing American participation in the proposed loan, I shall be glad to inform your excellency of that decision.

Accept [etc.]

FRANK L. POLK

File No. 893.51/2127

The Ambassador in Japan (Morris) to the Secretary of State
[Telegram]

TOKYO, March 15, 1918, 9 p. m.

It is true that Baron Sakatani is going to China on March 19 to study financial conditions. He called upon me to explain the object of his visit, expressed fear that China faced bankruptcy, feared Chinese officials would not cooperate heartily, had no definite plan to suggest, and would give me benefit of his conclusions on his return.

MORRIS

File No. 893.51/1888

The Minister in China (Reinsch) to the Secretary of State
[Telegram]

PEKING, April 8, 1918, 1 p. m.

In view of the fact that the currency loan option expires April 18, the representatives of the British, French, Japanese, and Russian groups have asked the Chinese Government for an extension. The Russian and Japanese groups are therefore now treated as direct parties in interest in matters concerning the currency loan. How far has the formation of an American group proceeded?

REINSCH

The Secretary of State to the Minister in China (Reinsch)
[Telegram]

WASHINGTON, April 9, 1918, 4 p. m.

Your April 8, 1 p. m. Final decision in currency loan matter has been deferred pending developments in China and here.

Department trusts that option will be extended, and you may so inform Chinese Government.

LANSING

File No. 893.51/1889

The Ambassador in Great Britain (Page) to the Secretary of State
[Telegram]

LONDON, April 9, 1918, 10 p. m.

9411. British Government have recently had under consideration arrangements for completing construction of a section of the Hu-

kuang Railways by an American firm of contractors who are financed by American International Corporation. The realization of this project would appear to entail the merging of the International Corporation in the existing American group in the Hukuang Railways agreement and the issue of a loan in United States. Foreign Office therefore inquire whether any progress has been made in respect to organization of a new American group to participate in the projected issue of a supplementary Chinese reorganization loan referred to in your 5876, November 22, 5 p. m.,¹ and my telegrams 8116, January 1, 2 p. m., and 8224 [8258?], January 14, 3 p. m., and if such a group is constituted whether it will be authorized to issue on the New York market during the war loans for the administrative purpose of the Chinese Government or for industrial enterprises including railway construction in China.

PAGE

The Secretary of State to the Ambassador in Great Britain (Page)

[Telegram]

WASHINGTON, April 11, 1918, 4 p. m.

7231. Your 9411, April 9, 10 p. m. Action has been deferred pending developments here and in China. It is doubtful whether group will be organized in the near future.

LANSING

File No. 893.51/1890

The Minister in China (Reinsch) to the Secretary of State

[Telegram—Extract]

PEKING, April 13, 1918, 5 p. m.

Your April 9, 4 p. m. The option has been extended for six months, but the Minister of Finance has informed the banks that detailed scheme of currency reform will be transmitted to them at an early date. . . .

REINSCH

File No. 893.51/1893

The Minister in China (Reinsch) to the Secretary of State

[Telegram—Extracts]

PEKING, April 27, 1918, 5 p. m.

My telegram of April 13, 5 p. m., my despatch number 1886. Baron Sakatani, whose appointment as financial adviser is being urged by the Japanese Minister, demands control over foreign loans and over bank-note issues. The Chinese Government is not willing to give such extensive powers. Sakatani has left on a tour, meanwhile Japanese Legation urges his appointment. Even Liang Ch'i-ch'ao invited Sakatani to come, now counsels caution.

¹ *Foreign Relations, 1917*, p. 156n.

In view of Sakatani's press statements I asked Japanese Minister yesterday whether Sakatani was candidate for the position of currency adviser. Japanese Minister stated that he was, and when I suggested that the other powers interested in the currency loan were entitled to a voice in the matter, he stated that the Chinese Government had offered the position of currency adviser to Sakatani. I remarked that it was surprising that such action should be taken by the Chinese Government without previous consultation with the powers interested. Japanese Minister then said that his Government had already suggested to the British and French the appointment of Sakatani. . . .

The French banking representative stated to me that his Government might consent to the appointment of Sakatani but that the extensive powers asked for him constitute a new phase. He expressed the hope that the American Government might immediately appoint its representative as a proposal for the loan is expected presently and the first meeting after such proposal will be of great importance. . . .

REIN SCH

File No. 893.51/2007

The Chargé in China (MacMurray) to the Secretary of State

[Extract]

No. 2197

PEKING, August 13, 1918.

Sir: Referring to my telegram of August 9, 4 p. m.¹ on the subject of a proposed arrangement with certain Japanese banking interests for a credit of 80,000,000 gold yen to be used as a reserve against which to issue a quantity of gold currency notes ultimately redeemable only in Japan, I have the honor to advise you that on the 10th instant the Government by mandate promulgated a set of regulations governing the issue of gold currency notes, and rules governing the Government's Currency Bureau, of which translations are enclosed herewith (these translations being those published in the Peking *Leader* of the 11th instant, as corrected by the Chinese Secretary of Legation by comparison with the Chinese text as published in the Government *Gazette*). Only fragmentary information in regard to the terms of the loan, with a view to which these regulations have undoubtedly been framed, has thus far been obtainable, the effort throughout having been to keep the matter a profound secret—the Acting Minister of Finance, Mr. Ts'ao Ju-lin, having himself informed me, a month ago, that no such project was in contemplation, the only basis for the rumors in regard to it (such as those embodied in the enclosed clipping from the Peking *Leader* of July 7¹) being that the Ministry was considering the possibility of issuing perhaps as much as \$3,000,000 worth of gold currency notes, independently of any arrangements with foreign banking interests, and merely as an experiment with a view to finding a solution of certain questions of exchange. Some further statements in regard to the contents of the agreement concluded between Mr.

¹ Not printed.

Ts'ao and Mr. Nishihara are contained in the enclosed clippings from the *Leader* of the 9th and 10th instant.¹ There is also enclosed clipping from the same newspaper of the 9th instant, giving a translation of a reported interview with Mr. Nishihara on the eve of his departure from Peking.¹

I beg to refer to the Legation's despatch (No. 1667) of October 12 last¹ in regard to the proposals for a new currency loan, which were submitted by the Ministry of Finance for the consideration of the banking groups interested in the currency loan agreement of April 15, 1911. In reply to the formal letter of the Chinese Government submitting these proposals, the representatives of the British, French, Japanese, and Russian groups replied under date of December 27 last requesting a more detailed exposition of these proposals, as a necessary preliminary to further negotiations. A copy of this letter is enclosed herewith.¹ Although in April last the bankers insisted upon, and received, a further extension of their option under the currency loan agreement, extending to October 14 next, they never received any reply to their inquiry until the 10th instant, when the regulations referred to above were forwarded to them by the Ministry of Finance, with an intentionally flippant note to the effect that "in reply to your inquiry of some time ago" there were enclosed copies of documents which would sufficiently indicate the purposes of the Ministry in regard to currency reform. . . .

J. V. A. MACMURRAY

[Enclosure]

*Regulations governing the issue of gold currency notes**

ARTICLE 1

With a view to facilitating international trade and preparing for the adoption of a currency system with a gold basis the bank or banks appointed by the Currency Bureau shall be allowed to issue gold currency notes.

ARTICLE 2

The unit of the gold currency shall be one gold dollar which shall contain 0.752318 kungfun of pure gold, that is, 2.01688 candareen of kiping tael.

One-tenth part of a gold dollar shall be called a "chao", one-hundredth a "fen", one-thousanthd a "li", etc.

ARTICLE 3

The denominations of the gold currency notes shall be: one dollar, five dollars, ten dollars, twenty dollars, fifty dollars and one hundred dollars.

The Government may order the bank or banks appointed by the bureau to issue gold currency notes of smaller denominations, such as five-chao (half a dollar), two-chao (one fifth of a dollar), and one-chao (one tenth of a dollar), and the Government mint may be ordered to mint copper coins of one "fen" denomination.

ARTICLE 4

Before the coinage of such gold dollars the holder of the gold currency notes may remit the money to other cities in this country or to foreign countries through the specified banks and after the coinage of such gold dollars, the holder of such gold currency notes may exchange them for gold coins as well as remit them to any city in the country or to any foreign country.

¹ Not printed.

* Extract from the Peking *Leader* of August 11, 1918.

The gold currency notes may be exchanged at the specified banks for foreign gold coins or gold bullion. All ornaments made of pure gold shall be considered equivalent to sterling gold and they shall be valued according to the quantity of pure gold they contain.

ARTICLE 5

The proportionate value of the gold currency notes and the national currency now in circulation will necessarily not always be the same. But it shall be made known to the public by notifications issued by the specified banks from time to time, and gold currency notes and current silver coins in circulation or silver bullion may be exchanged at the said banks at the notified value.

ARTICLE 6

The specified banks shall have an adequate gold reserve against the amount of notes issued. This gold reserve shall either be in our national gold dollars, or gold bullion, or foreign gold coins deposited with the exchange banks in both Chinese and foreign commercial ports. The public shall be notified by the specified banks once every ten days about the amount of the gold reserve and the places where this reserve is deposited.

This gold reserve shall be subject to the inspection of the special delegates of the Currency Bureau at any time.

ARTICLE 7

The gold currency notes may be used in public and private dealings at the proportionate value as notified from time to time by the specified banks.

The use of the gold currency notes shall not be restricted.

ARTICLE 8

The specified banks may deposit and carry on other forms of business with the gold currency notes.

ARTICLE 9

These regulations shall be enforced from the date of promulgation.

The rules governing the organization of the Currency Bureau

ARTICLE 1

The Currency Bureau shall be under the direct control of the Premier and take charge of the following affairs:

- (1) Those in connexion with currency;
- (2) Those in connexion with the issue of notes;
- (3) Other matters in connexion with currency.

ARTICLE 2

The following officers shall be appointed to the Currency Bureau:

One director-general; this post shall be held by the Minister of Finance concurrently.

One governor, to be specially appointed.

One adviser, to be engaged.

An unlimited number of honorary advisers, to be engaged.

ARTICLE 3

In the Currency Bureau, departments shall be established and members appointed to manage the affairs of their respective departments. But before the establishment of such departments, investigation committee shall be appointed with a certain number of members, which shall be decided upon by order of the bureau.

ARTICLE 4

For copying documents and the management of miscellaneous affairs, clerks shall be employed in the said bureau.

ARTICLE 5

All the mints, printing offices, paper factories, and the superintendents of the banks under the control of the Ministry of Finance shall be under the supervision and direction of the Currency Bureau.

ARTICLE 6

The Currency Bureau may issue orders independently or, in important matters may ask for the issuance of Cabinet orders, or it may issue jointly with the Ministry of Finance.

ARTICLE 7

The Currency Bureau shall be established for a period of ten years.

ARTICLE 8

The regulations governing management of affairs in the Currency Bureau shall be drafted separately.

ARTICLE 9

These rules shall be enforced from the date of promulgation.

File No. 893.51/1963

The Chargé in China (MacMurray) to the Secretary of State

[Telegram—Extracts]

PEKING, August 17, 1918, 5 p. m.

On the 10th instant the Government promulgated regulations concerning gold currency notes and the establishment of a currency commission obviously in pursuance of the secret arrangement reported in my telegram of August 9, 4 p. m.¹ These regulations were after publication communicated to the banks holding the option on the currency loan of 1911 as a reply to their request of October last for information as to the project of currency reform for which the Chinese Government had asked funds. The manifest intention of Ministry of Finance was to confront the banks with an unacceptable accomplished fact so that they would reject the proposal and thus forego their option.

After consulting with their respective Legations the representatives of the Japanese and Russian, as well as the British and French banking groups, yesterday entered a joint protest to the Ministry against this infringement of their rights under the currency reform and reorganization loan agreements and stated that the matter had been placed in the hands of their Legations. . . . It is now understood that the Government will not attempt for time being to put the regulations into force. Should the attempt be made, however, I await authorization to make an independent protest on the basis of the Legation's note of October 20 last,² addressed to the Foreign Office in pursuance of your telegram of October 13, 2 p. m.,³ and reported to you in the Legation's No. 1679, October 22.⁴ . . .

MACMURRAY

¹ Not printed.

² *Foreign Relations*, 1917, p. 156.

³ *Ibid.*, p. 149.

File No. 893.51/1963

The Secretary of State to the Chargé in China (MacMurray)

[Telegram]

WASHINGTON, August 21, 1918, 3 p. m.

Your August 17, 5 p. m. Should attempt be made to put the proposed regulations into force you will make protest as suggested upon the basis of the Department's telegraphic instruction of October 13, 2 p. m.¹

LANSING

File No. 893.51/2034

The Chargé in China (MacMurray) to the Secretary of State

No. 2205

PEKING, August 21, 1918.

SIR: Referring to the despatch (No. 1661) of October 9 last,² with which the Legation forwarded to the Department a translation of an agreement between the Yokohama Specie Bank and the Chinese Government, concluded August 28, 1917, for an advance of yen 10,000,000 upon the proposed supplementary reorganization loan, I have the honor to enclose herewith a translation (from the Chinese text) of an agreement between the same parties, concluded on July 19 last, for the renewal of the Chinese Government Treasury bills, under the provisions of Article 9 of the earlier agreement.

I have [etc.]

J. V. A. MACMURRAY

[Enclosure—Translation]

Agreement for the renewal of the Chinese Government Treasury bills

This agreement, made at Peking on the 19th day of July of the seventh year of the Republic of China (the 19th day of July of the seventh year of Ta Cheng) between the Chinese Government, acting through its Minister of Finance, of the one part, and the Yokohama Specie Bank (hereinafter called the Bank) of the other part.

Witnesseth:

WHEREAS, according to the agreement for the advance of yen 10,000,000, entered into by the above contracting parties on the 28th day of August of the sixth year of the Republic of China (the 28th day of August of the sixth year of Ta Cheng), the repayment of the Treasury bills (hereinafter called the old bills) of the sixth year of the Republic (the sixth year of Ta Cheng) issued in Japan by the Chinese Government will fall due on the 1st day of September of the seventh year of the Republic of China (the 1st day of September of the seventh year of Ta Cheng);

WHEREAS the Chinese Government acting in accordance with the provision of Article 9 of the above said agreement proposes to extend the period for the repayment of the above bills; and

WHEREAS the Bank consents to take over the Treasury bills of new issue for a period of one year as a procedure for the renewal.

Therefore it is hereby agreed as follows:

ARTICLE 1

The Chinese Government shall authorize the Bank three days before the due date of repayment of the old bills to issue in Japan the Chinese Government Treasury bills for the nominal amount of yen 10,000,000, and the net proceeds of these bills for the Chinese Government together with the principal as provided in Article 7 shall be used for the repayment of the principal of the old bills.

¹ *Foreign Relations*, 1917, p. 149.² *Ibid.*, p. 146.

The Bank shall in accordance with the above provision hand to the Chinese Minister in Tokyo the old bills to be returned to the Chinese Government on the due date of their repayment and at any time thereafter when such bills have been totally repaid.

The Treasury bills mentioned in the first clause of this article shall be issued on the 29th day of August of the seventh year of Ta Cheng and shall be entitled the Chinese Government Treasury Bills No. B of the seventh year of the Republic (the seventh year of Ta Cheng).

ARTICLE 2

The said Treasury bills shall be repaid within one year from date of their issue.

ARTICLE 3

The interest of the said Treasury bills shall be paid in advance in Japan at the rate of 7 per cent, that is to say the net price of each yen 100 bill shall be yen 93.

ARTICLE 4

The said Treasury bills shall hereby be secured with priority by a charge on the entire revenues of the Salt Administration of China, subject to previous loans and obligations already charged on the security thereof and not yet redeemed.

ARTICLE 5

The Chinese Government shall pay on the fifth day of each month for a period of ten months from October of the seventh year of the Republic of China (October of the seventh year of Ta Cheng) till July of the eighth year of the Republic of China (July of the eighth year of Ta Cheng), the equivalent of yen 1,000,000 in Shanghai sycee or coins of the national currency out of the salt revenue to the Bank in Shanghai to be remitted to the Bank in Yokohama for the repayment of the principal of the said Treasury bills.

The rate of exchange for such payment shall be such market rate for telegraph transfer to Japan as will be settled with the Bank on the date of payment or one month in advance.

The Bank in Yokohama, on receipt of the telegraph transfer for such payment, shall duly enter it in the account and shall grant interest thereon at the rate of 5 per cent calculated from the date of receipt till ten days before the due date of repayment of the said Treasury bills.

ARTICLE 6

The Bank may accept on the date of issue of the said Treasury bills the old bills at their face value for the payment of the said Treasury bills.

ARTICLE 7

The Chinese Government shall pay at Shanghai the equivalent of about yen 803,000, being the interest payable in advance as provided in Article 3 of this agreement and the service commission provided in Article 9 together with the stamp tax of about yen 3,000 for the said Treasury bills, in Shanghai sycee or coins of the national currency ten days before the due date of repayment of the old bills, the exchange for which shall be settled with the Bank on the date of payment or one month in advance.

ARTICLE 8

The Bank, after having issued the said Treasury bills and repaid the old bills, shall supply the Chinese Government as soon as possible a report on the net proceeds in gold of the said Treasury bills and on the amount in gold of transfers made according to Article 7 as well as the accounts for the repayment of the old bills.

ARTICLE 9

The Chinese Government shall assign one hundredth of the total nominal amount of the bills, that is yen 100,000, as the service commission for the issue of the said Treasury bills, which sum is to be paid to the Bank on the date of issue of the said Treasury bills.

ARTICLE 10

The Minister of Finance, on behalf of the Chinese Government, shall first issue in accordance with the provision of Article 1 of this agreement a Treasury bill for the nominal amount of yen 10,000,000 on the date on which the said Treasury bills are to be issued, and shall hand the same to the Bank in Peking.

The bill thus issued shall be returned by the Bank to the Ministry of Finance as soon as the whole of the Treasury bills to be issued in Japan have been printed.

The form of the said Treasury bills to be issued in Japan and the denomination of each bill shall be determined by the bank in consultation with the Chinese Minister in Tokyo, according to the precedents of foreign Treasury bills previously issued in Japan.

The said Treasury bills shall bear the signatures and official seals of the Minister of Finance and of the Chinese Minister in Tokyo in order to evidence that these bills are issued with the approval of the Chinese Government and that it assumes the responsibility. Furthermore, as the governor of the Bank acts as the manager of the said Treasury bills, he shall also affix his signature and seal to these bills.

The Chinese Government shall, on the day of signing this agreement, telegraph to the Chinese Minister in Tokyo instructions for the enforcement of this agreement.

ARTICLE 11

The said Treasury bills shall be repaid with priority out of the net proceeds of the second reorganization loan, when the latter is made.

ARTICLE 12

The terms of this agreement shall be officially communicated by the Ministry of Foreign Affairs to the Japanese Minister in Peking.

ARTICLE 13

Four sets of this agreement are executed, two sets each to be retained by the Chinese Government and the Bank. In the event of any doubt regarding the interpretation of this agreement the Japanese text shall rule.

Signed at Peking this 19th day of July of the seventh year of the Republic of China (the 19th day of July of the seventh year of Ta Cheng).

[Here follow signatures.]

File No. 893.5034/26

The Chargé in China (MacMurray) to the Secretary of State

[Telegram—Extract]

PEKING, August 29, 1918, 8 p. m.

In the Government *Gazette* are now published regulations for a nominal Chinese trading company which appears to be concerted with the gold currency scheme reported in my cipher telegram of August 9, 4 p. m.¹

The regulations provide that—

This company will deal in all sorts of raw and manufactured articles both export and import and will act as agents for the Government for companies, business firms, or individuals in handling both exports and imports, limiting itself to accepting only such agencies as are approved by the committee of shareholders.

This company will ask the Government to confer upon it special privileges so as to encourage it in its competition with foreign traders.

(a) All commodities which can be exported or imported only on special permits from the Government shall be handled by company by special permits.

(b) When the Government or any organization under the control of the Government needs articles this company shall be appointed the agent by special permit to purchase the goods required.

¹ Not printed.

(c) In exporting raw materials or manufactured articles and in importing raw materials, machinery, or the like special lines of goods when the special permit of the Government has been obtained the Ministry of Communications shall give the same terms for freight as in transporting Government property and shall fix a favorable exchange to encourage the company.

When the Government wish to stimulate trade in any native products it shall notify this company of the varieties of goods and shall order the company to take measures to increase the import or export as a part of its obligation.

Clause A presumably refers to imports of arms and ammunition and to export of cereals (now required by Japan in view of the rice famine there) and copper cash and possibly iron which this Government is seeking to make a nationalized industry. The paragraph last quoted is understood to refer principally to cotton and wool. . . .

Unless otherwise instructed I propose to address to the Foreign Office a statement that our Government trusts there is no intention on the part of the Chinese Government to confer any exclusive or monopolistic powers on this company in violation of treaty provisions and that it must claim for its nationals any special privileges which these regulations may be construed to confer.

MACMURRAY

File No. 893.51/1997

The Chargé in China (MacMurray) to the Secretary of State

[Telegram]

PEKING, September 6, 1918, 9 p. m.

The protest of the banks reported in my August 17, 5 p. m., having elicited from the Minister of Finance only a statement that the regulations for gold notes were in pursuance of a plan of monetary reform and that there was no occasion for anxiety, interested legations on the 31st ultimo formally protested to the Chinese Government by identic notes of the same tenor as the protest of the banks.

I am now reliably informed that the note of the Japanese Legation contained an additional passage stating that the Japanese Government further objected to the adoption of these regulations in disregard of assurances received from the Chinese Government that Baron Sakatani would be employed as financial adviser to assist in the reform of currency.

It seems likely that the question of the rights of consortium in the matter will not become acute until October 14 on the expiration of their option under the currency loan agreement. It now seems advisable to reserve until that time any action under the authorization contained in your telegram of August 21, 3 p. m.

MACMURRAY

File No. 893.5034/26

The Secretary of State to the Chargé in China (MacMurray)

[Telegram]

WASHINGTON, September 7, 1918, 4 p. m.

Your August 29, regarding Chinese trading company. Your proposal to notify the Chinese Government formally that the American

Government will claim for its nationals as a treaty right any special privileges granted to the company is approved. In expressing to the Chinese Government the hope that there is no intention on its part to confer any exclusive or monopolistic powers on the company in question you will say that the American Government would be greatly concerned to learn that the Chinese Government had in fact countenanced the organization of a company which seems to have for its purpose the creation of a monopolistic enterprise in contravention of treaty provisions.

LANSING

File No. 893.51/2029

The Chargé in China (MacMurray) to the Secretary of State

[Extracts]

No. 2228

PEKING, September 9, 1918.

SIR: Referring to the despatch (No. 2197) of August 13, in which the Legation reported concerning the promulgation by the Chinese Government of regulations contemplating the issuance of gold currency notes based upon a credit of 80,000,000 yen to be extended by certain Japanese banking interests represented by the Bank of Chosen, I have the honor to report that this matter has been so jealously kept secret by those concerned in the transaction that it has thus far proved impossible to obtain any definite or exact information as to the nature of the scheme contemplated or as to such arrangements as are believed (in spite of the denial of the Acting Minister of Finance, Mr. Ts'ao Ju-lin) to have been made with the interested Japanese banking group through Mr. Nishihara. There is enclosed, however, a translation (as given in the Peking *Leader* of August 15 and 16¹) of the memorandum on gold currency with which the Acting Minister of Finance submitted for promulgation by the President the sets of regulations which were forwarded to the Department in my despatch cited above. By way of comment upon the proposal, there are also enclosed an editorial article in the Peking *Leader* of August 16,¹ a clipping from the same newspaper (August 17)¹ professing to quote the explanations offered from an official source, and a translation (as given in the *Leader* of August 17 and 18) of a criticism of the regulations by Liang Chiu-sui.¹

It will be noted that in the memorandum on gold currency, submitted by the Acting Minister of Finance, there are several references to the Chung Hua Trading Company to be organized "for the purpose of carrying [on] foreign trade in order to help the circulation of the said notes." The regulations for this company were authorized by a mandate of August 22, published in the *Official Gazette* of August 28, as reported in my telegram of August 29, 8 p. m., and in a separate despatch (No. 2229) of to-day's date¹ which the Legation is addressing to the Department, to which I venture to invite attention.

In so far as concerns the conflict between the gold-note scheme and the option held by the British, French, Japanese and Russian

¹ Not printed.

banking groups, under the currency loan agreement of 1911, I beg to refer to my telegram of August 17, 5 p. m., and to enclose herewith a copy of the joint protest which the four banks addressed to the Ministry of Finance under date of the 16th ultimo. As reported in my telegram of September 6, 6 p. m. [9 p. m.], Mr. Ts'ao replied to this protest by a note verging upon flippancy, to the effect that the regulations in question had been drawn up in pursuance of a plan of financial currency reform, and that the banks need therefore feel no occasion for anxiety. The matter was thereupon referred to the four interested Legations for further action; and although the Japanese Minister was obliged to request some days' delay in order to obtain the instructions of his Government in this matter, there was at no time any divergence of opinion as to the necessity of supporting the protest originally made by the banks; and on August 31 each of the four Legations sent to the Ministry for Foreign Affairs a note supporting that protest, all four notes in identical terms, except that the Japanese note included two additional paragraphs embodying a further and distinct protest against the adoption of a scheme of currency reform without reference to Baron Sakatani. . . .

There is enclosed herewith a clipping from the Peking *Leader* of the 4th instant,¹ in regard to the protest of the Legations, with particular reference to the dualism of Japanese policy as exemplified in the Japanese Minister's joining in a protest against a scheme negotiated by Mr. Nishihara, who is understood to be a personal representative of the Japanese Prime Minister. There is also enclosed a further clipping from the same source,¹ quoting the Osaka *Mainichi* in regard to the antagonism between these two representatives of Japanese interests, and commenting upon the return of Baron Hayashi to Japan. It may be added that Baron Hayashi left Peking on the 6th instant, and at the time of his departure informed me that he expected to return in about five weeks. In this connection I take occasion to enclose herewith clippings from the Peking *Leader* of September 4 and 5,¹ reprinting from the *Far Eastern Review* a summary of a recent official publication of the Japanese Ministry of Finance, detailing the steps taken by that ministry to extend Japanese investments in China, through the instrumentality of banks especially privileged for the purpose. Without laying undue emphasis upon the somewhat extraordinary statement of this official declaration, that "because of political instability in China investment in that country was very risky—financial transactions had to be carried on with secrecy and dispatch," I venture to invite the particular attention of the Department to the establishment of a banking group, independent of the Yokohama Specie Bank which had theretofore represented Japan in the consortium for China business, and the designation of the Bank of Chosen, instead of the Specie Bank, "to act as a general financial organ to bring about unity of the currency system," with a view to "helping the establishment of a gold standard everywhere, thereby leading to a fundamental reform of China's currency." . . .

¹ Not printed.

It is now reported that Mr. Nishihara is about to return to Peking, and there is in the minds of those interested in the currency loan agreement of 1911 a question whether it is not his purpose to work with Mr. Ts'ao to defeat the option of the consortium or prevent its renewal upon its expiration on October 14 next. It is accordingly anticipated that the question of gold currency notes, which seems for the time to be in abeyance, may again become critical at that time. It has therefore seemed expedient, as suggested in my telegram of September 6, 6 p. m. [9 p. m.], for the Legation to reserve until then the reiteration of the claim of our Government to be considered in respect to any plans for currency reform, in the sense of the Department's telegram of October 13, 1917.¹

I have [etc.]

J. V. A. MACMURRAY

[Enclosure]

The British, French, Japanese, and Russian groups to the Chinese Minister of Finance

PEKING, August 16, 1918.

SIR: We have the honour to acknowledge receipt of your letter of the 10th instant enclosing for our information a completed memorandum on currency together with a copy of the national coinage law of the third year of the Republic and detailed regulations for giving effect to the same which we understand to be the detailed exposition of the currency proposals of the Chinese Government requested in our letter of the 31st of October 1917.

The above documents being of great length some time will be required for their translation: but, from a first examination, it appears that this scheme includes new regulations for the issue of gold currency notes and the organisation of a Currency Bureau. Both these matters are clearly of great importance in currency reform; and as it was agreed in previous correspondence with your Ministry that the proposals for currency reform should be handed to the groups' representatives for consideration and negotiation as the basis of the second reorganisation loan, we note with surprise that the regulations handed to us have simultaneously been promulgated by presidential mandate in the *Official Gazette*.

We would also remind you that we continue to hold an option on the currency reform loan agreement of 1911 which, with the assent of the Chinese Government, is to be incorporated in the second reorganisation loan, and in which our groups have therefore a common interest: and that although modifications in that agreement are clearly necessary, such modifications can only be made by mutual consent.

As we consider that the action now taken by the Chinese Government constitutes a serious infringement of our rights we feel that we have no course left but to refer the matter to our Legations.

We have [etc.]

(Signed by representatives of British,
French, Japanese, and Russian groups)

File No. 893.51/1995

The Secretary of State to the Chargé in China (MacMurray)

[Telegram]

WASHINGTON, September 9, 1918, 6 p. m.

Has so-called eighty million gold yen currency loan been definitely postponed?

LANSING

¹ *Foreign Relations*, 1917, p. 149.

File No. 893.51/2003

The Chargé in China (MacMurray) to the Secretary of State

[Telegram]

PEKING, September 13, 1918, 8 p. m.

Your telegram September 9, 6 p. m. The conclusion of a loan in connection with the scheme of currency notes is denied by the Minister of Finance but the truth of the matter is nevertheless in doubt.

So far as can be learned the enforcement of the gold regulations is in abeyance for time being but while the ultimate intentions of the authorities cannot be known, it is not supposed that they have definitely abandoned the project.

MACMURRAY

File No. 893.51/2022

The Chargé in China (MacMurray) to the Secretary of State

[Telegram—Extract]

PEKING, October 5, 1918, 10 a. m.

Your September 27, 3 p. m.¹ The reply of Minister of Finance to the protest of the four interested Legations reported in my telegram of September 6, 6 p. m. [9 p. m.], transmitted to the Minister for Foreign Affairs on September 26 [was] to the effect that currency reform is a matter of domestic administration and that the measures taken thus far constitute no violation of prior obligations and that auxiliary currency and reorganization loan agreements are unimpaired.

It is the intention of the consortium bankers to undertake a discussion with the Chinese of the scheme of currency reform proposed by the Ministry of Finance, to request an extension of the option expiring October 14, meanwhile asking their Legations to address notes to the Foreign Office expressing satisfaction that the rights of the banks are recognized without prejudice and stating that the several group representatives have therefore been authorized to discuss the recent Chinese proposal.

I fear we can hopefully take no initiative in the matter but must reserve our protest either to force the renewal of the option or eventually to strengthen the bankers of other nationalities in their opposition to the ultimate adoption of currency proposals which they consider worthless and even dangerous.

Unless otherwise instructed I shall act in accordance with this view.

MACMURRAY

File No. 893.51/2028

The Chargé in China (MacMurray) to the Secretary of State

[Telegram]

PEKING, October 8, 1918, 1 p. m.

Your September 27, 3 p. m.¹ Consortium bankers and their Legations have replied to the Ministry of Finance in the sense indicated

¹ Not printed.

in my telegram October 5, 10 a. m., in spite of the fact that on 5th instant the bankers also submitted a memorandum criticizing the gold currency project as premature and impracticable. This action nevertheless appears to have had an unexpectedly bad effect as the Minister of Finance and his clique have at any rate professed to inquire into [interpret?] it as a complete withdrawal of the protest against the gold currency scheme and are believed to be hurrying negotiations for the loan of eighty million yen from the Bank of Chosen.

This precipitates a crisis in which our protest may be helpful and as authorized by your August 21, 3 p. m., I am reiterating the reservation as to the American interest in any project of currency reform.

MACMURRAY

File No. 893.51/2068

The Minister in China (Reinsch) to the Secretary of State

No. 2287

PEKING, October 23, 1918.

SIR: I have the honor to enclose for your information copies of the regulations concerning currency reform promulgated on August 10, 1918;¹ and of a memorandum of an interview between the Minister of Finance and the British, French, Russian and Japanese group representatives on October 21, 1918.²

Most decided exception is being taken by the above representatives and their Ministers to the attempt to anticipate a part of the currency reform, through the gold-note scheme, without previous consultation and agreement with the groups which hold the currency loan option. Moreover, the gold-note scheme is considered in itself absolutely unsound, designed only for private profit, and of such a nature as to add still further to the currency confusion in China.

The failure of the Minister of Finance to give notice to the American Government of the proposal embodied in the gold-note scheme, is made the subject of a note from the Chargé to the Minister for Foreign Affairs, dated October 8, 1918, and of a reinforcing remonstrance by myself, dated October 22 [23], 1918, copies of which are herewith enclosed.

I have [etc.]

PAUL S. REINSCH

[Enclosure 1]

*The Chargé in China (MacMurray) to the Chinese Minister for Foreign Affairs
(Lu Cheng-hsiang)*

No. 857

PEKING, October 8, 1918.

EXCELLENCY: I have the honor to recall to your excellency's attention the fact that on October 20, 1917, the Legation had occasion to communicate to the Ministry for Foreign Affairs, under instructions from the Government of the United States, the following statement of views:

Quite apart from any individual contractual interest accruing to the American group under the currency loan agreement of April 15, 1911, the Government of the United States considers that the whole history of the

¹ See enclosure to despatch No. 2197, August 13, 1918, *ante*, p. 148.

² Not printed.

currency loan project—notably the appeal made to it by the Chinese Government in January 1904, the conference with Dr. Jenks in 1903 and 1904, and the request for a loan for the purpose of monetary reform which in 1910 the Chinese Government addressed not to any individuals but directly to the American Government—constitutes in behalf of the Government of the United States such an interest in the project as entitles it to be considered in reference to any action which the Chinese Government may contemplate with a view to carrying such project into effect. This interest has never been abandoned by the Government of the United States.

Under instructions of the American Government I have the honor to reiterate the foregoing reservation of a right, in behalf of that Government, to be consulted in regard to any project of currency reform which the Chinese Government may propose to adopt.

I avail [etc.]

J. V. A. MACMURRAY

[Enclosure 2]

*The Minister in China (Reinsch) to the Chinese Minister for Foreign Affairs
(Lu Cheng-hsiang)*

No. 871

PEKING, October 23, 1918.

EXCELLENCY: In a note to your excellency dated October 20, 1917, I brought to your attention the continuing interest of the American Government in the matter of currency reform and loans for that purpose. On October 8, 1918, the American Chargé d'Affaires again called your excellency's attention to this matter. The substance of these representations is that the American Government, having originally interested itself in currency reform and having initiated the entire currency loan project, is entitled to expect from the Chinese Government, as a friendly power, to be consulted with respect to further developments of this enterprise. Notwithstanding these statements made under instructions from the American Government, the Minister of Finance has attempted to take important action in connection with currency reform without giving the American Government an opportunity to consider such proposal.

I therefore have the honor to request that the attention of the Minister of Finance be called in the strongest terms to the subsisting relationship between the Government of China and the Government of the United States in the matter of currency reform. In order to prove its continuing friendship for the American Government it will be desirable for the Chinese Government to instruct the Minister of Finance not to ignore the American Government in this matter which the said Government has had a continuing interest in, and to take no action whatsoever which will interfere with the carrying out of the complete currency reform plan under the loan agreement to which other friendly powers are the parties and in which the United States Government has a continuing interest. I am constrained to state that a failure on the part of the Minister of Finance to observe the demands of this relationship between the Chinese and the American Government can not fail but have detrimental results, which I feel assured your excellency's Government in its traditional and sincere friendship for my country will desire to avoid.

I therefore urgently request that information to this effect be given the Minister of Finance without delay.

I avail [etc.]

PAUL S. REINSCH

File No. 893.51/2060

The Minister in China (Reinsch) to the Secretary of State

[Telegram]

PEKING, November 8, 1918, 5 p. m.

Minister of Finance has extended the currency loan option but on condition that negotiations be taken up without delay. The representatives of the British and French groups urge upon me absolute necessity of immediately sending an American representative to par-

ticipate in the negotiations as it will be embarrassing to them to delay action; and on the other hand the initial questions on which basic arrangements will be discussed will be the most important. Even if complete arrangements for international financing have not been made it is essential to the proper conduct of affairs here that an American representative be sent immediately for this particular purpose. Other matters could still be under discussion pending the adoption of complete plans.

REINSCH

File No. 893.51/2078

The Minister in China (Reinsch) to the Secretary of State

[Extract]

No. 2317

PEKING, November 8, 1918.

SIR: In connection with my telegram of even date herewith concerning the currency loan option, I have the honor to state that yesterday Mr. E. G. Hillier, the representative of the British group, and Mr. R. Saint-Pierre, the representative of the French group, called on me to inform me that the Minister of Finance had extended the option. They urged that as the extension had been granted on condition that negotiations for the currency loan should now be taken up, it is of the utmost importance that the United States should, without delay, have a financial representative here. As it had been practically decided that America would participate, they said that it would be very embarrassing to them to continue to ask for delay on account of the absence of an American representative. On the other hand, they felt that it would not be right for them to proceed with the negotiations, as the first conferences on this matter will be most important since in them the basic principles of the loan and of the reform will be discussed. . . .

I have [etc.]

PAUL S. REINSCH

[Enclosure]

The Chinese Acting Minister of Finance (Ts'ao Ju-lin) to the British, French, Russian, and Japanese groups' representatives

MINISTRY OF FINANCE,
PEKING, November 5, 1918.

GENTLEMEN: I have the honor to acknowledge receipt of your letter enclosing your observations on the currency memorandum which had been handed to you by this Ministry.

Your observations are noted and will be given careful consideration by this Ministry.

Your statement that in view of the importance of currency reform time is necessary for discussion of the memorandum and your request for extension of the currency reform and industrial development loan agreement of 1911 in order that due time may be allowed for full discussion are clearly well founded. I have therefore the honor hereby to authorize the further extension of the agreement for six months, commencing from the 14th of October of this year and terminating on the 14th of April next year.

I have to add that the discussions should take place as soon as possible during this period; if protracted beyond due date, no further extension will be allowed.

I have [etc.]

TS'AO JU-LIN

File No. 893.51/2128

The Ambassador in Japan (Morris) to the Secretary of State

[Telegram]

TOKYO, December 19, 1918, 4 p. m.

Baron Sakatani has formally accepted appointment as financial adviser to the Chinese Government. In an interview published this morning the Baron says:

As I don't want to become a mere ornament, I submit the conditions on which I was prepared to commence work. Among the first schemes which I shall launch is currency reform with a view to the adoption of the gold standard. When the currency reform is completed, trade between Japan and China will become more prosperous than now.

MORRIS

Kirin and Heilungkiang Forestry and Mines Loan¹

File No. 893.51/1990

The Chargé in China (MacMurray) to the Secretary of State

[Extract]

No. 2160

PEKING, July 27, 1918.

SIR: I have the honor to enclose herewith a translation of the agreement between certain Japanese banks and the Chinese Government for a loan of yen 30,000,000, secured upon the forests and gold mines of the two Provinces of Kirin and Heilungkiang, recently concluded, together with certain accompanying letters,² these translations being those published in the Peking *Leader* of July 24, 25 and 26, 1918. Although the translations do not claim to be authoritative, I have been reliably informed that they are at least substantially accurate.

I venture to direct the particular attention of the Department to Articles 8 and 9 of the principal agreement, the provisions of which appear to establish in favor of Japanese interests an effectively exclusive right of working the forests and gold mines in the two northern provinces of Manchuria. In view of the apparent endeavor to establish such a monopoly as was repudiated by both the Japanese and Chinese Governments in the case of the agreement concerning mines and railways in Manchuria in 1909,³ I have addressed to the Foreign Office a note, a copy of which is enclosed herewith, inviting attention to the earlier case, and requesting to be advised of the authenticity of the translation published in the *Leader*, in order that I might be able to present for your consideration the question suggested by these provisions. . . .

I have [etc.]

J. V. A. MACMURRAY

¹ See also the report of Mr. MacMurray in despatch No. 2348, *ante*, p. 121.

² Agreement and letters not printed.

³ See *Foreign Relations*, 1909, pp. 121 and 122.

[Enclosure]

*The Chargé in China (MacMurray) to the Chinese Minister for Foreign Affairs
(Lu Cheng-hsiang)*

No. 804

PEKING, July 27, 1918.

EXCELLENCY: On the 16th of November 1909 the American Legation addressed a note¹ to the Prince of Ch'ing in regard to the joint Chinese-Japanese agreement of September 4, 1909, for the joint Chinese-Japanese exploitation of mines along the South Manchuria and Antung-Mukden Railway, inquiring whether this agreement involved a monopoly of the rights and privileges of opening mines in the territory designated in the agreement to the exclusion of Americans and others. To this note the Prince of Ch'ing replied on the 18th of November 1909,² stating that the said agreement did not involve a monopoly, nor confer any exclusive rights to mines therein upon Japanese subjects, but that mines in the territory mentioned may, with the consent of the Chinese Government, be exploited by third parties also. On the 25th of November 1909, the Japanese Minister of Foreign Affairs sent a note² to the American Embassy at Tokyo, in which he said:

The provisions of the agreement of September 4, in reference to joint exploitation of mines along the railways do not and were not in any way intended to involve a monopoly of the right to discover, open and operate mines in Manchuria, to the exclusion of Americans or any other persons.

In the Peking *Leader* of July 24, 25, and 26, there appears a translation of the Kirin forestry loan agreement between the Chinese Government and the Japanese banks, together with several notes exchanged. I have the honor to inquire if this may be relied upon as a faithful rendering of the text of the agreement.

In this text Article 8 reads as follows:

The "A" party agrees to pledge to the "B" party the following articles as security for the repayment of the loan and the payment of interest:

(1) All the gold mines and government-owned forests in the two provinces of Kirin and Heilungkiang.

Article 9 reads in part as follows:

Whenever, during the currency of this agreement, the "A" party desires to contract a loan or loans from another party on the aforesaid gold mines and government-owned forests or on other incomes derived therefrom, the said party shall consult with the "B" party beforehand.

In view of the questions suggested by the provisions quoted I have the honor to request your excellency to be so good as to advise me as to the accuracy of the texts of the loan agreement and of the five attached letters, in order that I may be enabled to lay the matter before my Government for its consideration.

I avail [etc.]

J. V. A. MACMURRAY

File No. 893.51/1972

The Chargé in China (MacMurray) to the Secretary of State

[Telegram]

PEKING, August 22, 1918, 6 p. m.

In reply to my inquiry of the Foreign Office concerning another exclusive concession to Japanese interests under the agreement for a loan on the security of forests and mines in Kirin and Heilungkiang

¹ *Foreign Relations*, 1909, p. 123.

² *Ibid.*, p. 124.

forwarded in my despatch 2160, July 27, Minister of Foreign Affairs quotes Ministry of Finance as follows:

Article 8 specifies and [all?] forests and mines of two provinces only as security for a temporary period. The Chinese Government has this sort of executive power, this is indisputable. Article 9 only gives priority rights in case the Government wishes to make further loans on the said security. A careful examination of the agreement and the accompanying notes shows that there is no passage to the effect that those of other nationality are not allowed to cooperate.

As the text forwarded with my despatch above cited is stated not to be accurate, I am requesting an autograph transcript for submission to you.

MACMURRAY

File No. 893.51/2031

The Chargé in China (MacMurray) to the Secretary of State

No. 2238

PEKING, September 10, 1918.

SIR: Supplementing the Legation's despatch (No. 2160) of July 27 last, on the subject of the Kirin forestry loan, and referring also to my telegram of August 22, 7 p. m. [6 p. m.], I have the honor to enclose herewith a translation of the note (No. 834) of August 21, by which the Foreign Office communicated the reply of the Ministry of Finance to my inquiry of July 27, and a copy of the further note (No. 832) which I addressed to the Foreign Office on this subject on the 31st ultimo.

I also enclose herewith a clipping from the Peking *Leader* of August 16,¹ reporting a mass meeting held in Kirin for the discussion of measures with a view to the cancelation of this loan agreement. In this connection, I take occasion to enclose herewith a clipping from to-day's issue of the Peking *Leader*,¹ giving the substance of certain suggestions made by the provincial authorities of Kirin in regard to the proposed amendment of certain terms of the agreement.

I have [etc.]

J. V. A. MACMURRAY

[Enclosure 1—Translation]

The Chinese Ministry for Foreign Affairs to the Chargé in China (MacMurray)

No. 834

PEKING, August 21, 1918.

SIR: We have the honor to acknowledge the receipt of your note (of July 27, 1918). (The note in question is then fully quoted.) This Ministry has referred the matter to the Ministry of Finance which now replies as follows:

The Heilungkiang and Chi-lin [Kirin] forestry and mines loan contract has been duly signed. The translation published in the Peking *Leader* was probably based on outside report and is not strictly accurate. The following passages however are accurate:

ARTICLE 8. The "A" party agrees to pledge to the "B" party the following articles as security for the repayment of the loan and the payment of interest: (1) All the gold mines and government-owned forests in the two provinces of Kirin and Heilung-kiang.

ARTICLE 9. Whenever during the currency of this agreement, the "A" party desires to contract a loan or loans from another party on the aforesaid gold mines and government-owned forests or on other incomes derived therefrom, the said party shall consult with the "B" party beforehand.

¹ Not printed.

Now the Article 8 specifies the forests and gold mines of two provinces only, as security for a temporary period. The Chinese Government has this sort of executive power. This is indisputable. Article 9 only gives priority rights in case the Government wishes to make further loans of the said security. A careful scrutiny of the agreement and the accompanying notes shows that there is no passage to the effect that those of other nationality are not allowed to cooperate.

As in duty bound we transmit this statement for your consideration.

CH'EN LU

[Enclosure 2]

*The Chargé in China (MacMurray) to the Chinese Minister for Foreign Affairs
(Lu Cheng-hsiang)*

No. 832

PEKING, August 13, 1918.

EXCELLENCY: I have the honor to acknowledge the receipt of your excellency's note of August 21, containing the reply of the Minister of Finance concerning the Heilungkiang-Kirin forestry loan.

In order to avoid possible misunderstandings regarding this transaction, as his excellency, the Minister of Finance, states that the text of the loan agreement as published in the local press is not entirely accurate, I have the honor to request that the Legation may be furnished with a copy of the actual agreement with the annexed notes to which the Minister of Finance makes allusion, for the use of my Government.

I avail [etc.]

J. V. A. MACMURRAY

File No. 893.51/1972

The Secretary of State to the Chargé in China (MacMurray)

[Telegram]

WASHINGTON, September 24, 1918, 3 p. m.

Your August 22, 6 p. m. Should an authentic copy of the texts of the agreement and exchange of notes relating to a loan on the security of the forests and mines in Kirin and Heilungkiang Provinces confirm substantially the texts forwarded with your despatch of July 27 last you will lodge with the Chinese Government a formal protest against the monopolistic features of the said agreement.

LANSING

File No. 893.51/2027

The Chargé in China (MacMurray) to the Secretary of State

[Telegram]

PEKING, October 8, 1918, 2 p. m.

Your September 24, 3 p. m. Ministry of Finance declined to communicate texts of Kirin forestry agreement and notes.

MACMURRAY

The Acting Secretary of State to the Chargé in China (MacMurray)

[Telegram]

WASHINGTON, October 10, 1918, 11 a. m.

Your October 8, 2 p. m., and referring to note from Foreign Office of August 21, 1918.

You may inquire of the Chinese Government whether this Government is to understand from the closing sentence of the reply of the Ministry of Finance that those of other nationality including American citizens will be allowed to cooperate in the Kirin forestry agreement and its subsidiary privileges.

POLK

Other Loans

File No. 893.51/1896

**The Minister in China (Reinsch) to the Secretary of State*

No. 1996

PEKING, April 12, 1918.

SIR: I have the honor to enclose a list of loans made to the Chinese Government during the year 1917, and during January of the present year.

I have [etc.]

PAUL S. REINSCH

[Enclosure]
RECENT LOANS TO CHINA, 1917-1918
1917

	Date	To	By	Term	Interest issue price (per cent)	Amount	Security	Remarks
1	Jan. 20	Board of Communications	Japanese bank group--	3 years--	7½	Yen 5,000,000	\$1,500,000 worth of shares in Bank of Communications; \$4,000,000 Chinese Treasury bonds	(a) Adviser appointed to bank (b) Option on future loans to bank.
2	June 16	Ministry of Finance---	Four group bank	--	--	\$2,000,000	Salt revenue.	Now repaid.
3	Aug. 28	Ministry of Finance---	Japanese bank group--	1 year--	7	Yen 10,000,000 (\$5,820,000)	Unpledged receipts of salt revenue	This was called an advance on the second reorganization loan; issued in form of Government Treasury bills. It was advanced for "Administration purposes," but four-fifths of this was actually devoted to military expenditure.
4	Sept. 28	Minister of Communications in his capacity as Director of Bank of Communications	Japanese bank group--	3 years--	7½	Yen 20,000,000 (\$12,000,000)	\$25,000,000 Treasury bonds held by bank and guaranteed by Government	(a) Issued without commission, but owing to exchange Chinese will only receive about 60 per cent in dollars or yen amount. (b) This loan is supplementary to No. 1 of Jan. 20, <i>supra</i> .
5	Oct. 17	Chinese Government---	Seven foreign group banks	--	7	Shanghai taels 700,000	--	For flood relief, Province of Chihli.
6	Oct.	Minister of Finance and Minister of Communications	South Manchuria Railway Co.	30 years--	5	91,50	Property of railway and its revenue	For construction of Kirin-Changchun Railway.
7	Nov. 20	Chinese Government	American International Corp.	20 years--	7	Gold \$6,000,000	Reclaimed lands and taxes of reclaimed lands	For conservancy of Grand Canal; gold \$2,500,000 to be issued in Japan; not yet issued.
8	Nov. 22	Ministry of Finance---	Japanese bank group--	1 year--	7	Yen 5,000,000 (\$3,500,000)	Revenue of three native customhouses	For flood relief in Chihli and North China.

RECENT LOANS TO CHINA, 1917-1918—Continued

1918

Date	To	By	Term	Interest (per cent)	Issue price	Amount	Security	Remarks
1 Jan.	Minister of War and Minister of Finance	Japanese Taihei Kumiai Syndicate	-----	7	95	Yen 14,000,000	-----	(a) There was an additional 5 per cent commission, for unspecified purposes. (b) Arms contract.
Jan.	Military Government of Chihli	Japanese Mitsui Bank	-----	-----	-----	\$1,000,000	Reported Kaiwan mining shares, but probably Lanchow shares	For ministry expenses.
Jan.	-----	Japanese Mitsui Bank	-----	-----	-----	\$1,000,000	-----	The Japanese Company provided \$1,000,000 worth of Japanese yarn to Chinese cotton spinners; repayment guaranteed by Ministry of Finance.
Jan.	Minister of Finance	Japanese Mitsui Bank	3 years -----	8	98	Yen 2,000,000	Gov't Printing and Engraving Bureau	Japanese company secures monopoly of supplies to bureau and Japanese control.
Jan. 6	Minister of Finance	Japanese bank group	-----	-----	-----	Yen 10,000,000	-----	This is supplementary to No. 3 of Aug. 28, 1917, above.

File No. 893.51/1901

The Minister in China (Reinsch) to the Secretary of State

No. 2025

PEKING, May 1, 1918.

SIR: I have the honor to enclose, for your information, a copy of the regulations for the two new domestic loans which are now to be issued.¹

There is to be an issue amounting to \$48,000,000, called the seventh year short-term loan, which is repayable in five years and is secured upon the deferred Boxer indemnity payments. On account of this excellent security the issue would undoubtedly be very successful were it not that coupled with this loan there is issued a 6 per cent internal loan of the seventh year of the Republic, which is to run for twenty years and which is secured only on the general credit of the Chinese Government.

These loans are issued in order to provide funds for the redemption of the notes of the two Government banks. The notes of these banks, which now stand at 65 per cent of par, are to be accepted in payment for the bonds provided that an equal amount of short-term and long-term bonds are bought. The solution is not one that generally commends itself and it is feared that the value of the notes will not be materially raised, although one half of the issue provided is of such excellent quality.

The above is the opinion of Chinese financiers, such as Mr. Hsü Un-yuen.

I have [etc.]

PAUL S. REINSCH

File No. 893.51/2006

The Chargé in China (MacMurray) to the Secretary of State

No. 2172

PEKING, August 3, 1918.

SIR: I have the honor to enclose herewith, for the confidential information of the Department, a translation from the Chinese text of the contract for a loan of yen five million by a Japanese banking syndicate (represented by the Industrial Bank of Japan and the Sino-Japanese Industrial Development Company) to the Chinese Government for the purpose of flood relief in the Province of Chihli, concluded November 22, 1917.¹

I have [etc.]

J. V. A. MACMURRAY

NEGOTIATIONS FOR THE ORGANIZATION OF A NEW INTERNATIONAL FINANCIAL CONSORTIUM

File No. 893.51/2513a

The Secretary of State to President Wilson

WASHINGTON, June 20, 1918.

MY DEAR MR. PRESIDENT: The subject of making a loan or loans to China again presents itself. Conditions are different at present

¹ Not printed,

from what they were when this subject was up a while ago, and entirely different from what they were when the American group withdrew from the consortium. The last time it was under discussion the Secretary of the Treasury expressed the feeling that our commitments to European countries and our needs in America were such as to make a loan to China then impracticable.

I have recently been advised by the Secretary of the Treasury that the affairs of the Treasury will probably permit some such loans to be made, provided the diplomatic situation warrants so doing, and I feel that it does. The question immediately arises as to the nature of the loans, the purposes for which they are to be used and the character of the loan, that is, as to whether it shall be a governmental loan or one by private bankers. After consultation between the officials of this Department and of the Treasury, it is felt that loans for war purposes by private bankers would be best under the circumstances. With that object in view, it is being proposed to call together the representatives of a few of the banks which have been interested in making loans in the Far East, and that they, or any of them, and such others as they may desire, form an American group. Those who would fall in this category are the officers of the Guaranty Trust Co., J. P. Morgan & Co., Kuhn, Loeb & Co., of New York, the Continental & Commercial Trust & Savings Bank of Chicago, and Lee, Higginson & Co. of Boston.

There are three matters in prospect which offer opportunities for such a group to operate in, in which it will be very advisable to have American financiers interested. They are as follows:

1st. The Continental & Commercial Trust & Savings Bank of Chicago made a loan to China some time ago, taking as security the income from the wine and tobacco tax. As part of the contract they obtained a preference on any additional loans looking to the same security up to twenty-five million dollars. Japanese interests are at present negotiating with China to make a loan on the same security, having in contemplation a liquidation of the existing five-million-dollar loan above referred to, and including in the contract provision for the organization and control of the whole tobacco and wine industry of China—its manufacture, production, and sale.

2d. The railroad service projected from Canton to Hankow was under British control. The line is not completed. It will take about thirty million dollars to finish it. The British financiers have not been able to proceed with it and have called in the American International Corp. and their subsidiary, the Siems-Carey Co., and have asked them to proceed with the construction. The Siems-Carey Co. is unable to finance it, but is able, in case they can make financial arrangements, to agree with the British interests that American engineers shall be used and American control exercised over the road during the period of the contract existing between the British interests and the Chinese Government which extends over a number of years. The financing of the road at this time would enable American interests to control a very important railroad. It is understood between the Siems-Carey Co. and the British and French interests concerned that their Governments would, because of such aid, be likely to withdraw their claims to the spheres of influence in the regions affected.

3d. The loan for currency reform purposes, which will amount to a sum variously estimated between one hundred million and two hundred million must, under the contract, be made with the old consortium from which the American group withdrew, and with which neither the British nor the French groups are now able to proceed. That leaves Japanese capital in control. They have several times requested American participation and have expressed a real desire to have us join them. This is not imminent but will become active within the next three or four months. China has renewed the option several times but has declined to extend it again so that unless we are able to participate Japan can and probably will proceed alone with this large and important loan.

China has expected some financial assistance from the United States. Japan has made her many loans recently. We have made none. It was at our invitation she entered the war, and it is to us that she is looking for some financial help to guard against possibilities now that the scenes of war are nearing her borders. The indications are that her disappointment at not receiving what she has felt she had reason to expect has made her somewhat resentful against this country. If we are able to give permission to American banks to make the loans in connection with the tobacco tax and with the railroad, and to cooperate with Japan on the question of currency reform, it will be pleasing no doubt both to China and Japan.

The proposal is made to form an American group, composed of interests which have made loans in the Orient, and to allow them to carry out the details. It would be necessary to assure them of the support of the Government for these three projects, and for such other legitimate and non-political enterprises upon which they may enter.

In view of the present circumstances and of the situation in China, and of the conversations which have been had with the Treasury Department and their informal and verbal assurances that the plan above suggested would be feasible, I have the honor to request whether it receives your approval that we organize an American group for the purpose indicated and have your permission to proceed therewith subject to consultation and agreement with the Treasury.

Faithfully yours,

ROBERT LANSING

File No. 893.51/2513

President Wilson to the Secretary of State

WASHINGTON, June 21, 1918.

MY DEAR MR. SECRETARY: I approve of the course proposed in this letter. I take it for granted that everything necessary would be done to protect the Chinese Government against such unconscionable arrangements as were contemplated by the former consortium, because I am afraid it is not less but rather more likely that the Chinese Government would permit unfair advantage to be taken of it at the present time of stress than formerly.

Cordially and sincerely yours,

WOODROW WILSON

File No. 893.51/1907a-g, 2513c

The Secretary of State to Certain American Bankers¹

WASHINGTON, June 22, 1918.

DEAR SIR: The matter of making a loan or loans by private banking institutions to the Government of China is under consideration by this Government. With the idea of coming to some definite understanding on the subject, and in order to arrive at some plan of operation, I am asking the representatives of a few banks, interested in such matters, to meet with me and to discuss the question. The institutions I have in mind are the National City Bank, Kuhn, Loeb & Co., J. P. Morgan & Co., Guaranty Trust Co., the First National Bank and the Chase National Bank, all of New York, the Continental & Commercial Trust & Savings Bank of Chicago, and Lee, Higginson & Co., of Boston. The idea is that after a discussion of the matter, and a possible agreement as to the method of procedure any of the banks above named which might desire to proceed should do so, and that any other banks not herein mentioned, but which might be interested, or which might be invited to participate, could be included.

I will be very glad if you will come or send a duly authorized representative to meet with me and the representatives of the other institutions on next Wednesday, June 26, at 11.30 o'clock.

I am [etc.]

ROBERT LANSING

File No. 893.51/2176

Certain American Bankers to the Secretary of State

NEW YORK, July 8, 1918.

SIR: We have been giving very earnest consideration to the suggestion you made in Washington respecting a loan to China, and wish in the first place to assure you of our disposition to be of service in the matter, and to help in finding some way in which the wishes of the administration can be carried out.

In the course of our discussion the following points have seemed to us to be fundamental:

First. An arrangement of this sort which contemplates transactions spread over a considerable period of time, in our opinion should be made on the broadest basis in order to give the best protection to our investors, and with the right foundation established confidence would follow and anxiety and jealousy disappear. At the conference held in Washington recently there was mentioned as a course perhaps advisable that Americans and Japanese cooperate in a loan to China. We are disposed to believe that it would be better if such international cooperation were to be made broader. We suggest therefore, that this can best be accomplished if a four-power group be constituted consisting of financial members to be recognized by the respective Governments of Great Britain, France, Japan and the

¹ Those mentioned in this letter, who later, with a few others, became the American Group.

United States; our Government to recognize as their member of such group the American banks or firms which may become associated for this purpose, and which we should hope to have representative of the whole country. Although under the present circumstances it would be expected that Japan and the United States should carry England and France, such carrying should not diminish the vitality of their memberships in the four-power group.

One of the conditions of membership in such a four-power group should be that there should be a relinquishment by the members of the group either to China or to the group of any options to make loans which they now hold, and all loans to China by any of them should be considered as four-power group business. Through co-operation of England, France, Japan and the United States much can be accomplished for the maintenance of Chinese sovereignty and the preservation of the "open door"; and furthermore, such co-operation might greatly facilitate the full development of the large revenue sources, from only a very few of which China at present realizes a satisfactory income.

It would seem to be necessary if now and after the war we are successfully to carry out the responsibilities imposed upon us by our new international position, that our Government should be prepared in principle to recognize the change in our international relations, both diplomatic and commercial, brought about by the war.

Second. We have considerable doubt whether under the present circumstances the people of the United States could be induced to buy the debt of any foreign country on any terms. We feel quite certain that no loan could be sold unless the Government would be willing at the time of issue to make it clear to the public that the loan is made at the suggestion of the Government; with such an announcement we think it possible that a reasonable amount of Chinese loan could be placed in this country.

If these two fundamental conditions are agreed to by our Government we hold ourselves at your disposal to go further into the details of any proposed loan, and will cooperate with you most earnestly and sympathetically.

Yours very truly,

J. P. MORGAN & Co.

KUHN, LOEB & Co.

THE NATIONAL CITY BANK OF NEW YORK,

By F. A. VANDERLIP, President

FIRST NATIONAL BANK, NEW YORK,

By GEO. F. SABIN, jr., Vice Prest.

CHASE NATIONAL BANK,

By E. R. TINKER, Vice Prest.

CONTINENTAL & COMMERCIAL TRUST

& SAVINGS BANK, CHICAGO,

By JOHN JAY ABBOTT, V. P.

LEE, HIGGINSON & Co.

GUARANTY TRUST CO. OF NEW YORK,

By CHARLES H. SABIN, Pt.

File No. 893.51/2176

The Secretary of State to Certain American Bankers

WASHINGTON, July 9, 1918.

GENTLEMEN: Your letter of July 8, 1918, has had my very careful consideration. It contains several elements of an important nature which I will take up in order.

This war has brought the countries of Great Britain, France, Japan, the United States, and some others into a state of harmony and helpfulness, and has supplanted an intense spirit of competition by a spirit of mutuality and cooperation in matters relating to their interests abroad. Doubtless this situation is in a measure due to the absence of capital seeking foreign investment at the present time because of the demands upon it for war purposes.

If international cooperation is necessary, as seems to be the case, for the successful flotation of the proposed loan, I realize that the support of Great Britain and France would be desirable even if it should be necessary for the United States and Japan to carry for the time being their respective portions of the loan. All four powers are of course deeply interested in any measures taken to strengthen China and fit her for a more active part in the war against the Central European powers. Japan is already considering rendering financial assistance, while two of the loans that have been mentioned as desirable are loans by which the interests of British and French citizens would be directly affected and it would, of course, be unwise to undertake their negotiation without consulting parties so immediately concerned.

In these circumstances the formation of a four-power group, to consist of financial interests of the United States, Great Britain, France, and Japan, to deal with the Government of China for purposes of making loans to that Government seems advisable, and it is my hope that in this way the whole subject of finance in China can ultimately be treated in a broad way. If the terms and conditions of each loan are submitted to and approved by this Government, and the other cooperating Governments and by the Government of China, this Government would not only interpose no objection, but, on the contrary, would consider such an arrangement an assurance that the welfare of China and the proper interests of the other Governments were of such a mutual character as to permit of close and friendly intercourse for their common good. I think that I should say frankly that this Government would be opposed to any terms or conditions of a loan which sought to impair the political control of China or lessened the sovereign rights of that Republic.

In response to your inquiry, as to whether the Government would be willing at the time of its issue to state that the loan was being made at the suggestion of the Government, I will say that the Government has suggested that this loan be made and would have no hesitancy in formally stating that fact at the time of issue.

The question of relinquishment by the members of the American group of any options to make loans now existing in favor of any of them seems to be a reasonable condition of membership in that group. Such relinquishment by a member of a foreign group is a matter over which this Government would have no control. However, I may say

that if the members of the American group come to the conclusion that they desire it, this Government will use its good offices, in so far as it can properly do so, to bring about such relinquishment.

The war has created a community of interest between certain Governments and their citizens and those of other Governments and has broken down barriers that once have existed and made easier the intercourse between them. With the consequent expansion of our interests abroad there must be considered also the element of risk which sometimes enters into the making of loans to foreign Governments and which is always inseparable from investments in foreign countries where reliance must be placed on the borrower's good faith and ability to carry out the terms of the contract. This Government realizes fully that condition and in order to encourage and facilitate that free intercourse between American citizens and foreign states which is mutually advantageous is willing to aid in every proper way and to make prompt and vigorous representations and to take every possible step to insure the execution of equitable contracts made in good faith by its citizens in foreign lands.

Your suggestion that the members of the proposed American group may be representative of the whole country is one which is entirely satisfactory since it removes a possible ground of objection. Various sections of the country are interested in enterprises of this character and undoubtedly would be glad to join any constructive movement such as is proposed. As so much depends upon the proper organization of the American financial group I assume that in the event of its formation you will submit the names of the proposed members to the Government before a final organization is made.

The spirit of cooperation you manifest is very gratifying and you are assured of the interest of the Government and of all proper aid which it can render in bringing this matter to a satisfactory conclusion.

I am [etc.]

ROBERT LANSING

File No. 893.51/1923c

The Secretary of State to the British Ambassador (Reading)¹

No. 150

WASHINGTON, July 10, 1918.

EXCELLENCY: Adverting to your note of October 8, 1917,² and to other correspondence on the subject of organizing an international consortium for the purpose of making a loan to China I have the honor to inform you that as a result of conferences held recently in Washington and New York, participated in by officers of the Departments of State and Treasury and representatives of certain banks in New York and Chicago, it was decided to take up the matter of making such a loan. I have the further honor to enclose herewith for

¹ The same, *mutatis mutandis*, on the same date, to the Japanese Ambassador (No. 3) and to the French Ambassador (No. 2181).

² *Foreign Relations*, 1917, p. 145.

your excellency's information and that of your Government copy of a letter dated July 8, 1918, from certain bankers in New York and Chicago, relative to this matter, and a copy of the Department's reply of July 9, 1918.

I have [etc.]

ROBERT LANSING

File No. 893.51/1923e

The Secretary of State to the Chinese Minister (Koo)

No. 75

WASHINGTON, July 10, 1918.

SIR: Adverting to your conferences with officials of this Department, on instructions from your Government, on the subject of organizing an international consortium for the purpose of making a loan to China, I have the honor to enclose herewith for your information and for that of your Government copy of a letter dated July 8, 1918, from certain bankers in New York and Chicago, relative to this matter, and a copy of the Department's reply of July 9, 1918.

Accept [etc.]

ROBERT LANSING

File No. 893.51/1923a

The Secretary of State to the Ambassador in Great Britain (Page)¹

[Telegram]

WASHINGTON, July 11, 1918, 4 p. m.

Department's No. 5876, November 22, 5 p. m.²

Representatives of J. P. Morgan & Co., the National City Bank, the First National Bank, Guaranty Trust Co., Kuhn, Loeb & Co. and the Chase National Bank, all of New York, and of the Continental & Commercial Trust & Savings Bank of Chicago met here June 26 at the invitation of the Department to consider the formation of a group to undertake a loan to China. Messrs. Lee, Higginson & Co. participated in later conference in New York. It was agreed that other banks from various sections of the country should be permitted to join the group so as to make it representative. The policy of co-operation with banking groups in other countries was also considered. To-day³ the Department received a letter from the banks mentioned suggesting the formation of a four-power group to consist of financial agencies to be recognized by the Governments of Great Britain, France, Japan and the United States respectively, though it was expected that under existing circumstances the groups of Japan and the United States would carry the participation of Great Britain and France.

A proposed condition of membership in such group is a relinquishment either to China or the group of any options on loans, all loans to be group business. The letter further states the belief of the banks that the people of the United States would not be willing to

¹ The same, *mutatis mutandis*, on the same date, to the Ambassadors in France and Japan and the Chargé in China.

² *Foreign Relations*, 1917, p. 156n.

³ Letter of July 8, 1918, received on July 9, is to be inferred.

subscribe to the loan unless the American Government will state at time of issue that the loan is made at its request and that Government has approved terms and conditions and will do all in its power to see contract carried out.

The Department has replied that it approves the formation of a four-power group since all four powers are deeply interested in measures to strengthen China and fit her for more active part in the war and that approval by this Government and other cooperating Governments and by China of terms would not only not be objected to but would be considered an assurance that the welfare of China and the proper interests of other Governments were duly considered and the terms of a character to promote common good. The Department states, however, that the American Government would not approve terms seeking to impair sovereignty of China. The Department also agreed to state at time of issue that the loan is made at its request. It regards relinquishment of options a reasonable condition of membership. It also states its willingness to take all possible steps to insure the execution of equitable contracts made in good faith by its citizens in foreign lands.

LANSING

The Secretary of State to the Chargé in China (MacMurray)¹

No. 844

WASHINGTON, July 15, 1918.

SIR: Adverting to the Department's telegram of July 11, 4 p. m., on the subject of the proposed organization of a consortium for the purpose of making a loan to China, there is enclosed herewith for your confidential information copy of a letter dated July 8, 1918, from certain bankers in New York and Chicago, relative to this matter, and a copy of the Department's reply of July 9, 1918.

I am [etc.]

For the Secretary of State:
WILLIAM PHILLIPS

File No. 893.51/1927

The American Group to the Secretary of State

NEW YORK, July 15, 1918.

SIR: On behalf of the parties addressed we have to acknowledge receipt of your letter of July 9, 1918, in reply to ours of July 8.

Your letter conveys most satisfactory assurances on the matters which we have considered fundamental. We expect within a day or two to submit to you for your approval the names of those institutions which we should expect to associate with ourselves in the proposed Chinese group.

We are communicating with the British and French members of the former six-power group in regard to a renewal of that agreement

¹ The same, *mutatis mutandis*, on the same date, to the Ambassadors in Great Britain (No. 6017), France (No. 2189), and Japan (No. 82).

so far as it concerns Great Britain, France and the United States; and we understand that we shall hear from you as to the willingness of Japan to join in that agreement.

We also understand that we shall receive either from the Chinese Government or from your Department, a definite request from China in regard to her immediate necessities, coupled with a complete statement of the purposes for which the money is to be used and the security to be pledged therefor.

We are further advised by Mr. Williams of your Department that it is the desire of the State Department that the group shall appoint an agent to represent it in Peking. We shall be ready to do this at such time as it seems desirable but we would call your attention to the fact that if progress is to be made in the immediate future on a loan to China it would be necessary for the negotiation to take place in America, preferably in New York or Washington, since a considerable amount of time will be required for an agent to be appointed and to organize his work in China.

In regard to the relinquishment of present options, this matter can probably be arranged so far as it concerns foreign holders of such options by making such a relinquishment a part of the four-power group agreement. We are obliged for your offer of help in this matter and should any difficulty develop we shall unhesitatingly ask you to take such action as may be appropriate in that connection.

Yours very truly,

J. P. MORGAN & Co.
On behalf of the American Group

File No. 893.51/1926

The American Group to the Secretary of State

NEW YORK, July 16, 1918.

SIR: In accordance with your instructions we enclose herewith for your approval a list of the various parties throughout the country whom we should hope to associate with ourselves as the Chinese group.

We have not as yet communicated with these various people, but will do so at once upon receipt of your approval of the names. In communicating with these people we should have to send them copies of the correspondence of July 8 and 9, and would ask you to signify to us your approval of our doing so.

Yours very truly,

J. P. MORGAN & Co.
For the American Group

[Enclosure]

New York City: J. P. Morgan & Co., Kuhn, Loeb & Co., First National Bank, National City Bank of New York, Guaranty Trust Co., Chase National Bank, National Bank of Commerce, Bankers Trust Co., Central Union Trust Co., Equitable Trust Co., Harris, Forbes & Co.

Philadelphia: Commercial Trust Co., Fidelity Trust Co., Girard Trust Co.

Boston: Lee, Higginson & Co., Kidder, Peabody & Co., First National Bank, National Shawmut Bank, Old Colony Trust Co.

Chicago: Continental & Commercial Trust & Savings Bank, First Trust & Savings Bank, Harris Trust & Savings Bank, Illinois Trust & Savings Bank, Northern Trust Co.

Pittsburgh: Union Trust Co., Mellon National Bank.

St. Louis: St. Louis Union Trust Co., Mercantile Trust Co., Mississippi Valley Trust Co.

San Francisco: Anglo & London-Paris National Bank, Bank of California, Wells Fargo Nevada National Bank.

New Orleans: Whitney Central National Bank.

File No. 893.51/1925

The Japanese Ambassador (Ishii) to the Secretary of State

WASHINGTON, July 17, 1918.

SIR: I have the honor to acknowledge the receipt of your note under date of the 10th instant concerning the matter of making a loan to China, together with copies of letters passed between the Department of State and certain bankers in New York and Chicago relative to this matter.

In reply thereto, I beg to state that your kind information contained in the note under acknowledgment has been duly noted by me and has been transmitted to the Imperial Government by the first mail.

Accept [etc.]

K. ISHII

File No. 893.51/1930

The British Ambassador (Reading) to the Acting Secretary of State

MEMORANDUM

No. 804

The British Ambassador presents his compliments to the Acting Secretary of State, and has the honour to refer to Mr. Lansing's note No. 150 of July 10, with regard to the formation of an international group to undertake loans to China.

His Majesty's Government were informed by telegraph of the correspondence which had passed between the Department of State and the American bankers, and have now enquired whether it is the intention of the United States Government that the financial activities of the new four-power group, which it is proposed to establish in the place of the original six-power group, should be limited to undertaking administrative loans to the Chinese Government, or whether it will also be permissible for the consortium to undertake loans for industrial and railway enterprises. The decision under which the making of industrial loans was removed from the scope of operations of the existing consortium was arrived at in September 1913, after the American group had withdrawn from the consortium. His Majesty's Government found themselves obliged to agree to a modification in this sense of the agreement of 1912, in view of the wish of the Japanese Government to resume their freedom of action in regard to industrial loans, and also owing to the pressure exercised by independent banking and other interests, which rendered it impossible for the British authorities to continue to

regard the British group in the consortium as the only organization entitled to receive official support in connection with the financing of industrial enterprises in the Chinese Empire. In these circumstances, supposing it to be the intention of the United States Government to renew the original six-power contract in the form of a four-power contract, it would be difficult for the British Government and for the other Governments concerned to agree to the revival of the agreement of 1912, in so far as it purports to prohibit the independent conclusion of loans for industrial purposes.

In order that the British Government may be in a position to appreciate fully the scope of the American proposals, the British Ambassador would be much obliged if he could be informed of the view of the United States Government on the point raised above.

WASHINGTON, July 20, 1918.

File 893.51/1923m

The Acting Secretary of State to the Ambassador in Japan (Morris)

[Telegram]

WASHINGTON, July 23, 1918, 5 p. m.

Please communicate to the Foreign Office the substance of the Department's telegram of July 11, 4 p. m., and say that the American Government would be glad to know that the Imperial Japanese Government agrees in principle to cooperate.

POLK

File No. 893.51/1926

The Secretary of State to the American Group

WASHINGTON, July 25, 1918.

GENTLEMEN: The Department acknowledges the receipt of your letter of July 16, 1918, enclosing a list of the various banking and trust companies throughout the country whom the new group hopes to have associated with it in connection with the proposed loan to China.

The Department approves the list you have submitted with the understanding that it does not prevent the participation in the loan of any other banks or trust companies which the group and the Department may in the future agree upon.

I am [etc.]

For the Secretary of State:

FRANK L. POLK

File No. 893.51/1930

The Acting Secretary of State to the British Ambassador (Reading)

MEMORANDUM

The Acting Secretary of State presents his compliments to His Britannic Majesty's Ambassador and has the honor to acknowledge receipt of his memorandum No. 804, of July 20, 1918, saying:

His Majesty's Government were informed by telegraph of the correspondence which has passed between the Department of State and the American bankers, and have now enquired whether it is the intention of the United States Government that the financial activities of the new four-power group, which it is proposed to establish in the place of the original six-power group, should be limited to undertaking administrative loans to the Chinese Government, or whether it will also be permissible for the consortium to undertake loans for industrial and railway enterprises.

In reply I have the honor to state that in so far as concerns the American group now forming under the agreement between the Department of State and certain bankers, it is the expectation of the Department that industrial loans will be made as well as those for administrative purposes.

The Department hopes that His Britannic Majesty's Government will find it desirable and possible to make a favorable response to the Department's proposal for cooperation in this important matter.

WASHINGTON, July 26, 1918.

File No. 893.51/1926

*The Acting Secretary of State to the Secretary of the Treasury
(McAdoo)*

WASHINGTON, July 30, 1918.

SIR: I have the honor to acknowledge the receipt of your letter of July 24,¹ in which you request that the Treasury Department be kept informed of the progress made, as well as any contemplated steps, in connection with the proposed loan to China. Since sending you on July 11 copies of the letter dated July 8 from the bankers interested in this loan, and the Department's reply of July 9, a letter has been received from the bankers submitting a tentative list of the banks and corporations which they desire shall participate in this loan. A copy of the letter from the bankers submitting this list, together with the Department's reply, is herewith enclosed for your information.

There is also enclosed herewith for your information copy of a letter dated July 15 from the bankers regarding certain details connected with the negotiations.

The Department of State will be glad to keep you fully informed of all developments and contemplated steps in connection with this matter.

I have [etc.]

FRANK L. POLK

File No. 893.51/1945a

*The Acting Secretary of State to the Ambassador in Great Britain
(Page)²*

[Telegram]

WASHINGTON, July 30, 1918.

512. Yesterday the Department gave to the press a statement concerning the formation of a group of banks to undertake loans to

¹Not printed.

²The same, on the same date, to the Ambassadors in France (No. 5158) and Japan (unnumbered).

China setting forth the fact that China entered the war largely because of American action and that the United States was interested in helping China to equip herself properly for her part in the war, that until now our Government has been too much absorbed in its own preparations to devise plans to help China. Now, however, the war [is] approaching China's borders so that means must be placed at her disposal, hence the formation of the group. The agreement between the Government and the group provides that:

1. The group shall contain representatives of various sections of the country;
2. The group will cooperate with the Government and follow its policy;
3. The names of banks to be included will be submitted to the Department for approval;
4. The terms and conditions of loans will also be submitted to the Department for approval;
5. The Government will take every possible step to insure execution of equitable contracts made in good faith by its citizens in foreign lands.

It is hoped that the American group will be associated with bankers of Great Britain, Japan, and France.

Negotiations with the Governments of these countries are now proceeding looking towards such cooperation. The community of interest now existing between these Governments is an added reason for such association and renders such cooperation easier than heretofore.

POLK

The Acting Secretary of State to the Chargé in China (MacMurray)

[Telegram]

WASHINGTON, July 30, 1918, 8 p. m.

The Department yesterday gave to the press the following statement concerning the formation of a group of banks to undertake loans to China:

China declared war against Germany very largely because of the action of the United States. Therefore this Government has felt a special interest in the desire of China to so equip herself as to be of more specific assistance in the war against the Central powers. Until the present time the engagements of the United States in preparing to exert effectively its strength in the European theater of war has operated to prevent specific constructive steps to help China realize her desires. Recently, however, this Government felt that, because of the approach to Chinese territory of the scenes of disorder, a special effort should be made to place proper means at the disposal of China. Consequently, a number of American bankers, who had been interested in the past in making loans to China and who had had experience in the Orient, were called to Washington and asked to become interested in the matter. The bankers responded very promptly and an agreement has been reached between them and the Department of State which has the following salient features:

1. The formation of a group of American bankers to make a loan or loans and to consist of representatives from different parts of the country;
2. An assurance on the part of the bankers that they will cooperate with the Government and follow the policies outlined by the Department of State; . . .

3. Submission of the names of the banks who will compose the group for the approval of the Department of State;
4. Submission of the terms and conditions of any loan or loans for the approval of the Department of State;
5. Assurances that if the terms and conditions of the loan are accepted by this Government and by the Government to which the loan is made, in order to encourage and facilitate the free intercourse between American citizens and foreign states which is mutually advantageous, the Government will be willing to aid in every way possible and to make prompt and vigorous representations, and to take every possible step to insure the execution of equitable contracts made in good faith by its citizens in foreign lands.

It is hoped that the American group will be associated with bankers of Great Britain, Japan and France. Negotiations are now in progress between the Government of the United States and those Governments which it is hoped will result in their cooperation and in the participation by the bankers of those countries in equal parts in any loan which may be made.

Besides the warlike conditions which confront China on her northern and western borders, there is a further incentive to cooperate with all these Governments, because the war has created a community of interest between them and their citizens and those of other Governments and has broken down barriers which once have existed and has made easier the intercourse between them. It is hoped that if the project succeeds it will serve as an agency through which this community of interest and the consequent expansion of our mutual interests abroad may be adequately and properly expressed.

POLK

File No. 893.51/1948

The American Group to the Acting Secretary of State

NEW YORK, July 31, 1918.

SIR: For your information, we desire to make clear that the American group, as already constituted, has designated the following institutions to act as a managing committee in connection with the whole matter:

J. P. Morgan & Co., Kuhn, Loeb & Co., the National City Bank of New York, Guaranty Trust Company of New York, Continental & Commercial Trust & Savings Bank of Chicago.

In other words the organization is now already in such shape that it can undertake active discussions with reference to any proposition that may be laid before it.

It occurred to us that possibly you might deem it necessary for us to wait until we had received replies from all the institutions whom, acting according to your wishes, we had invited as participants in this proposed business; but some of these institutions are in the far West and it may be ten days before we could receive a reply, and we desire to make it clear meantime that we are in a position to proceed.

In view of this situation perhaps you would deem it wise to bring us in touch in due course with the representatives of the British, French and Japanese groups; they with the American group constituting the so-called new four-power group.

In this connection we submit for your consideration whether it would not be wise for your Department to suggest that America be made the headquarters of the four-power group. When the old six-power group was an active organization you will remember that conferences were held alternately in London and Paris, and that the

groups from continental Europe took a leading share in the business. If, however, the situation is materially changed so as to force America and Japan to take the lead, would it not be wise to have that recognized by constituting the headquarters for the international group in this country?

Yours respectfully,

J. P. MORGAN & Co.
For the American Group

File No. 893.51/1945b

The Acting Secretary of State to the Chargé in China (MacMurray)

[Telegram]

WASHINGTON, July 31, 1918, 5 p. m.

Chinese Minister here some days ago promised to inquire of his Government the amount of loan desired, for what purposes, and upon what security. No reply thus far received. Please obtain the information which is needed by the banking group here prepared to lend.

POLK

File No. 893.51/1946

The Acting Secretary of State to the American Group

WASHINGTON, August 2, 1918.

SIRS: I have received your letter of July 31, advising that the American group has constituted the following institutions to act as a managing committee:

J. P. Morgan & Co., Kuhn, Loeb & Co., the National City Bank of New York, Guaranty Trust Company of New York, Continental & Commercial Trust & Savings Bank of Chicago.

I will not feel the necessity to wait until you receive replies from all of the institutions whom you have invited to participate in this proposed business in case there is anything to come to the American group before you have heard from them.

The Department has not heard from all the Governments it addressed and until it does hear will feel that it will be premature to put the members of the American group in touch with the representatives of the groups of the other Governments.

Your suggestion that it would be wise for this Department to suggest that America be the headquarters of the four-power group is interesting and logical. When it is felt that the suggestion could properly be made, the matter will be taken up with the other Governments.

I am [etc.]

FRANK L. POLK

File No. 893.51/1958

The American Group to the Acting Secretary of State

NEW YORK, August 6, 1918.

DEAR SIR: We are in receipt of your letter of August 2, contents of which we note with interest.

We hand you herewith for your information copy of the agreement which is being signed by members of the new American group. As soon as we have heard from all of the institutions on the list approved by you we will send you the complete membership of the group.

Yours very truly,

J. P. MORGAN & Co.

[Enclosure]

Memorandum of agreement, dated the 30th day of July, 1918, by and between Messrs. J. P. Morgan & Co., of the City of New York, parties of the first part, Messrs. Kuhn, Loeb & Co., of the City of New York, parties of the second part, First National Bank, of the City of New York, party of the third part, The National City Bank of New York, party of the fourth part, Guaranty Trust Co., of New York, party of the fifth part, Chase National Bank, of the City of New York, party of the sixth part, Messrs. Lee, Higginson & Co., of the City of Boston, party of the seventh part, and Continental & Commercial Trust & Savings Bank, of the City of Chicago, party of the eighth part, and such additional persons, firms and corporations as shall become parties to this agreement as hereinafter provided, Witnesseth:

The Government of the United States having expressed its desire that a banking group be formed to aid in the obtaining of loans to the Government of China, and the Department of State of the United States Government having expressed approval of the participation in such group of the parties to this agreement above named, and of such other persons, firms and corporations as the parties hereto may agree, with the approval of the said Department of State, to associate with themselves as hereinafter provided, the parties hereto severally are desirous of aiding or participating in any such loans as shall be sought and as shall prove acceptable to the parties hereto respectively, and accordingly hereby agree as follows:

First. In consideration of the premises and of the expected common benefits to result therefrom, the several parties to this agreement (including the parties hereinabove named and such other parties as they may associate with themselves hereunder as hereinafter provided), without forming a partnership, will cooperate as the American Group for the purpose of considering proposals for loans to the Government of China, and at the time of each such proposal of according to each of the parties to this agreement, severally and respectively, the opportunity of participating in any such loans as shall be approved.

The scope of this agreement shall include any loan or advance business, after the date of this agreement, with the Chinese Government, or with the Government of any of the provinces of China, or with any Chinese Government Department, or with Chinese Government official banks or companies having Chinese Government or Provincial Government guaranties, it being understood that there is excluded from the scope of this agreement current banking business, including small financial operations.

Any existing options in respect of Chinese loan or advance business such as is above described, which at the date of this agreement are held by any of the parties to this agreement, shall be transferred to the group.

Each proposition within the scope of this agreement which shall come to any member or members of the group, shall be submitted to the managing committee hereinafter provided for, and if approved by such committee shall be submitted by it to all the members of the group. Any member or members of the group may elect not to join in the proposition offered. The election of any member not to participate in any proposition shall not prejudice the right of such member to participate in subsequent propositions.

Any party to this agreement may withdraw at any time, but the agreement may not be dissolved except by the vote of a majority in interest. No withdrawal by any party shall relieve such party, or any other party, from liability in respect of any transactions in which such withdrawing party shall have previously elected to participate.

Second. With the consent of the managing committee hereinafter named, other persons or firms or corporations may become members of the group in

accordance with the terms of this agreement. Each such additional party admitted into the group shall evidence his acceptance of participation in the group upon the terms of this agreement by subscribing one of the parts or copies of this agreement.

The interests of the parties hereinabove named, as well as of such other parties as may become associated with them as hereinbefore provided, shall be apportioned equitably as from time to time agreed upon between them and the managing committee.

In case any party shall decline to participate in any proposition, the share in such proposition otherwise belonging to such party shall be apportioned to the participating parties ratably according to their several shares.

In the proportion of their respective interests at the time in the group, the parties hereto severally and respectively shall contribute to the expenses in respect of any proposition taken under consideration in behalf of the group, incurred by the group or its agents prior to the acceptance of such proposition.

In the proportion of their respective interests in each proposition accepted by the group, the parties participating in such proposition (a) shall contribute to the expense in connection therewith incurred after acceptance, and (b) shall share in the net results thereof. It is understood, however, that in case upon or after the acceptance of any proposition additional participants therein shall be admitted, such additional participants shall bear, in addition to their ratable share of the expenses incurred after acceptance, a like ratable share of that portion of the expenses incurred prior to acceptance not borne by withdrawing members.

Third. The headquarters of the group shall be in the office of J. P. Morgan & Co. All negotiations undertaken for account of the group; decision as to whether any proposition shall be submitted to the group; and the detailed management of each proposition accepted by the group, shall be in the hands of a managing committee consisting of the following:

J. P. Morgan & Co., Kuhn, Loeb & Co., The National City Bank of New York, Guaranty Trust Co. of New York, and Continental & Commercial Trust & Savings Bank of Chicago.

For convenience, this agreement may be subscribed in several parts or copies with like force and effect as though the subscriptions were upon one part or copy thereof, each such part or copy to be taken as an original and all collectively as one instrument.

Witness the hands and seals of the parties hereto the day and year first above written.

File No. 893.51/1951

The Chargé in China (MacMurray) to the Secretary of State

[Telegram—Extract]

PEKING, August 6, 1918, 7 p. m.

Supplementing my telegram of August 4, 7 p. m. In view of the meagerness of my information in regard to the plans of the newly constituted American group and of the Department in relation thereto it is with considerable diffidence that I venture to submit any observations concerning the Department's telegrams July 11, 4 p. m., July 30, 8 p. m. But I feel very intensely that only by the most judicious and firm action can American financial assistance be made really helpful to China or even avoid hurrying this unhappy country into economic, royalist, political dependence and moral stagnation. In the first place, I believe that in the present circumstances only a momentary catchpenny advantage could result from an independent effort of American interests to make loans in competition with the Japanese, unless wholly and genuinely for the purpose of productive industrial enterprise. A constructive policy can be followed only in cooperation with the other national groups

acting with the support and guidance of their respective governments. If, in order to obtain admission to that consortium on fair terms, our Government would require to have actual vested rights in hand I would suggest its arranging to take over the existing rights and options of other American interests rather than incur long delay and the risk of conflict with the claims of other nationalities as a preliminary to call for admission to the international organization.

It should be, if possible, arranged with the governments concerned that both political and industrial loans to the Central Government or to the provinces should all be made through the consortium: but if in practice it be found necessary to maintain a distinction in treatment between political and industrial loans it should be possible, at least, to effect an agreement that none of the four Governments would countenance or protect its nationals in respect to independent industrial loans unless the agreement therefor had been examined and approved by the interested government in advance with particular reference to the *bona fides* of the real significance of the loan and unless the exact terms of the agreement were made public both in China and in the other countries within a brief fixed period after the conclusion of negotiations. There is some reason in the hope that the British and French Governments and groups would support at least that much control and safeguard against the pitfalls of secret agreements in future.

Reuter telegram dated Washington July 24, stated: "The Government has agreed that American bankers should loan to China provided China cancels all outstanding loans and all loans be shared by American, British, French, and Japanese bankers." This has been generally construed as meaning that our Government contemplates having the consortium take up the essentially political loans recently made under the guise of industrial loans by certain Japanese interests in evasion of the restrictions imposed upon the official banking groups. . . .

MACMURRAY

File No. 893.51/1958

The Acting Secretary of State to the American Group

WASHINGTON, August 8, 1918.

SIRS: Your letter of August 6, with enclosure of copy of the agreement which is being signed by members of the new American group, has been received and carefully noted. As soon as you have heard from all the institutions on the list approved by the Department, we will be very glad to receive from you notification of the complete membership of the group.

Because of certain conditions without the control of the Department of State there probably will be some delay in arriving at a definite agreement in respect to the attitude to be taken towards any loans to China by some of the governments with whom it is proposed there should be cooperation. Pending such agreement, it is improbable that any definite data can be obtained from the Government of China in respect to their desires. Consequently there is

no immediate prospect that the Department of State can furnish you with such definite information as to enable you to begin negotiations. However, as soon as it is possible so to do, you will be communicated with and every effort will be made by this Department to obtain international cooperation, and to ascertain the necessary data.

I am [etc.]

FRANK L. POLK

File No. 893.51/1951

The Acting Secretary of State to the Chargé in China (MacMurray)

[Telegram]

WASHINGTON, August 10, 1918, 5 p. m.

Your telegram of August 6, 7 p. m., expresses views substantially identical with those held by the Department which is aware of the conditions you mention.

The aim of this Government is to devise plans to end the practice to which you refer and avoid the dangers threatening. It is proposed to create an international consortium which shall have the support of the governments concerned, without whose approval no loan, either administrative or industrial, can be made and which shall control all expenditures. If consortium arranged, all options held by members of it will be placed at the disposal of the consortium. The statement of Reuter quoted by you is inaccurate. There has been no proposal that China cancel all outstanding loans.

The Japanese here in discussing the proposal show an unwillingness to have industrial loans included and are evidently trying also to influence Great Britain and China to declare against their inclusion. The British Government has made inquiry as to this and China has instructed her Minister here to inform us that in the opinion of the Chinese Cabinet industrial loans ought not to be included. To leave them out will defeat the very purpose had in view in organizing the consortium. It is absolutely necessary to the protection of China's credit and Chinese resources that they be included. The Chinese Minister is so informing his Government. You are authorized in your discretion to impress this upon the Chinese Government.

POLK

File No. 893.51/1976

The Ambassador in Great Britain (Page) to the Secretary of State

No. 9710

LONDON, August 16, 1918.

SIR: With reference to the Department's circular telegram of July 11, 1918, and previous correspondence respecting the formation of a new four-power group for the purpose of making a loan to China, I have the honor to transmit herewith enclosed a copy of a note I have just received from the Foreign Office setting forth certain points arising out of the correspondence communicated to the British

Government which in their opinion call for further elucidation in order that they may be in a position to appreciate fully the scope of the proposals.

I have [etc.]

For the Ambassador:
IRWIN LAUGHLIN

[Enclosure]

The British Secretary of State for Foreign Affairs (Balfour) to the American Ambassador (Page)

LONDON, August 14, 1918.

YOUR EXCELLENCY: With reference to your note No. 971 of the 18th ultimo and to my reply of the 1st instant, I have the honour to inform your excellency that I have now received from Washington the full text of the confidential letters exchanged between the United States Secretary of State and certain leading American banks relative to the proposal to form a new four-power group for the purpose of making a loan to China.

His Majesty's Government welcome the decision of the United States Government to encourage the formation of a group of American banks to cooperate with similar British, French, and Japanese groups in affording financial assistance to China and they are prepared to assent in principle to the proposal to constitute a new four-power group in the place of the existing international consortium.

There are, however, certain points arising out of the correspondence communicated to His Majesty's Government which in their opinion call for further elucidation in order that they may be in a position to appreciate fully the scope of the American proposals.

In the first place it would appear that it was decided at the conference held in Washington prior to the exchange of the letters that it was desirable that a loan should be made to China by the proposed four-power group, and Mr. Lansing in signifying his acquiescence in that view in his letter of July 9 indicates that the object of such a loan would be to strengthen China and fit her for a more active part in the war against the Central European powers.

As your excellency is aware, the only loan to China which is now under consideration by the existing international consortium is a projected issue of a second or supplementary reorganisation loan of twenty million pounds for currency reform purposes in respect to which the Japanese group have already made two advances to the Chinese Government. It is not clear whether the American group contemplate participating in this loan which is now in course of negotiation with the Chinese Government and carrying the shares of the British and French groups by arrangement with the Japanese group or whether they have in view an entirely different financial transaction. The correspondence exchanged between the banks and the Secretary of State does not mention the amount of the projected loan, the revenues on which it is to be secured or the purposes to which it is to be applied.

Again, the scheme proposed by the United States Government and the American banks appears to contemplate not only the prompt issue of a special loan to China by the four-power group, but also the issue of other loans by that body. His Majesty's Ambassador at Washington was accordingly instructed to enquire whether it was the intention of the United States Government to confine the activities of the new four-power group to making administrative loans to the Chinese Government or whether the new consortium would be empowered also to make loans for industrial and railway enterprises in China. Lord Reading has replied that he is informed by the State Department that so far as concerns the American group now forming under the agreement between the Department and the bankers it is the expectation of the Department that industrial loans will be made as well as those for administrative purposes.

I must explain to your excellency that this question of the scope of the four-power group's financial activities is a matter of considerable importance in view of the decision taken at the intergroup conference held in Paris on the 26th September 1913 by the representatives of the British, French, German, Russian and Japanese groups in the international consortium when it was resolved and agreed that the provisions of the sextuple agreement should no longer apply to

industrial and railway loans. The meeting was informed by the chairman that a communication had been received from the American group stating that they agreed to the unconditional elimination of industrial loans from the scope of the sextuple agreement. His Majesty's Government were impelled to agree to the modification in this sense of the sextuple agreement of 1912 by the desire of the Japanese Government to resume their freedom in respect to industrial loans and also by pressure from independent banking and other interests outside the British group which made it impossible for them to continue to recognise the British group in the consortium as alone entitled to their official support for the financing of industrial enterprise in China. Your excellency will understand that in these circumstances it would be difficult for His Majesty's Government, and presumably for the other Governments concerned, to agree to the revival of the sextuple agreement of 1912 in so far as it purports to prohibit the independent conclusion of industrial loans, supposing that it is the intention of the United States Government to renew the original six-power contract in the form of a four-power contract and to seek the consent of the participating Governments to the principle of guaranteeing exclusive official support to their respective groups for the negotiation of industrial as well as of administrative loans.

The letters exchanged between the American bankers and the Secretary of State also deal with the question of the relinquishment to China or to the four-power group as a whole of any options on loans now held by the individual members or groups. I have to observe that so far as administrative loans to China are concerned, which alone fall within the scope of the existing consortium's activities, there is only one option held by individual members of that body, viz.: an option for a currency reform loan held by the British and French groups, and previous to China's declaration of war on the Central powers, by the German group. The currency reform loan has, with the consent of the British and French groups, been incorporated into the supplementary reorganisation loan and should the American group agree to cooperate with the British, French, and Japanese groups in raising such a loan it would naturally participate in any advantages which the possession of this option confers on the original holders.

Should it be the intention, however, of the United States Government to invite the other Governments to induce their respective groups to agree to the relinquishment in favour of the new four-power group of options on industrial and railway loans held by those groups or their individual members, I fear that such a proposal would present considerable difficulty and the question would have to be examined very carefully in consultation with the British interests involved before His Majesty's Government could express any opinion and still less signify their concurrence in the suggestion.

Finally, I notice that in his confidential answer to the American banker's letter Mr. Lansing states that the United States Government would be opposed to any terms or conditions of a loan which sought to impair the political control of China or lessened the sovereign rights of that Republic. His Majesty's Government presume that in making this statement the Secretary of State did not mean to imply that the United States Government would not entertain favourably any loan scheme submitted for their approval by the American group which provided for foreign control of the collection of the revenues earmarked as security for the loan, such as exists in the case of the loans secured on the Chinese maritime customs revenues and on the salt gabelle. Similarly His Majesty's Government conclude that the United States Government would not consider, for example, the appointment under the terms of a currency reform loan of a foreign adviser to supervise the introduction of currency reforms in China as an infringement of that country's sovereign rights. I venture to suggest that the favourable consideration of the American proposal would be facilitated if His Majesty's Government and the other Governments concerned could be reassured as to the precise intentions of the United States Government in this matter.

There is one further point which, although it is not a matter of urgency or likely to impede in any way the realisation of the four-power group project, should, I think, be brought to the notice of the United States Government. Toward the end of last year, the British, French, Russian and Japanese Governments finally agreed to the inclusion of a Belgian group in the existing bankers' consortium in China. It was, however, stipulated that the admission of Belgium into the consortium should only take effect after the war.

I have [etc.]

[File copy not signed]

File No. 893.51/2004a

The Secretary of State to the Ambassador in Great Britain (Page)¹

[Telegram]

WASHINGTON, August 21, 1918, 3 p. m.

883. Department's July 11, 4 p. m., and instruction No. 6017 of July 15.² The American Government hopes that His Britannic Majesty's Government will be disposed to cooperate in the proposed international consortium, more especially since the British Government has repeatedly urged the formation of an American group to participate in loans to China.

LANSING

File No. 893.51/1971

The Ambassador in Great Britain (Page) to the Secretary of State

[Telegram]

LONDON, August 22, 1918, 1 p. m.

1280. Your 883, August 21, 3 p. m. British Government are prepared to assent in principle to the proposal to constitute a new four-power group for the purpose of making a loan to China in the place of the existing international consortium. There are certain points which are not clear to British Government and these are set out in a long Foreign Office note dated August 14 sent to Department under cover of my despatch 9710, August 16, which went in pouch leaving that day.

PAGE

File No. 893.51/1977

The Ambassador in Japan (Morris) to the Secretary of State

[Telegram]

TOKYO, August 26, 1918, 8 p. m.

Your August 21, 3 p. m.² I have received to-day the following memorandum from the Foreign Office:

The Japanese Government have carefully considered the plan presented and are gratified that the United States Government approves the participation of American financial concerns in the consortium.

In order to form their own views definitely the Japanese Government desire the following further information concerning the intentions of the American Government:

1. Is it intended that the American group to be formed shall rejoin the existing four-power consortium or that the consortium shall be dissolved and replaced by a new organization? In the latter alternative what adjustment is it proposed to make respecting the rights and claims which are actually held by the present consortium in its reservation [relations?] with China, and by members of the consortium in these mutual relations, and what treatment is with fairness to be reserved for the Russian group left out of the new organization, in case that group takes exception to the proposed dissolution of the existing consortium?

¹ The same, *mutatis mutandis*, on the same date, to the Ambassador in France (No. 5382).

² Not printed.

2. What are the motives underlying the suggestion following "a relinquishment by the members of the group either to China or to the group of any options to make loans which they now hold"? Is any distinction to be made in the nature of the options to be so relinquished? For instance, the Yokohama Specie Bank representing the Japanese group holds options for certain railway loans in Manchuria and for loans to be made to Hanyehping establishment. Is it suggested that all such options shall equally be renounced?

3. Is it proposed that the field of joint activities for the new consortium shall cover industrial loans as well as loans for administrative purposes? In the affirmative case, it is expected that all loans to China shall practically be monopolized by the four-power group and that each Government shall undertake not only to deny support but also to put end to any financial operations in China which may be planned by independent commercial concerns [not?] taking part in the group?

4. Reservation is made by the American Government to oppose to "any terms or conditions of a loan which sought to impair the political control of China or lessen the sovereign rights of that Republic." Is it to be understood that this reservation is not intended to call in question propriety of any specific arrangement now in operation between the four-power consortium and the Chinese Government?

MORRIS

File No. 893.51/2015

The French Ambassador (Jusserand) to the Secretary of State

[Translation]

WASHINGTON, September 10, 1918.

MR. SECRETARY OF STATE: My Government informs me that its attention has been drawn to the expediency of not declaring Russia, represented in this case by the Russo-Asiatic Bank, to be out of the consortium recently formed with a view to granting a loan to China. It looks upon the question as one worthy of sober consideration under the existing circumstances; that which it has given it for its part led it to the conclusion that Russian participation, although it be purely nominal at this time, would offer very great advantages.

In my Government's opinion, the following considerations might well be borne in mind:

1. The contracts entered into by the associated banks in 1912 which created the consortium, in 1917 when their renewal made it possible to exclude the Germans, and in June 1918 for the purpose of extending the preceding agreement, all appear to place beyond doubt the right of the Russo-Asiatic Bank to be in the consortium.

2. At the time when the Allies are endeavoring to assist Russia to effect her reconstruction, no good reason could be easily seen for casting aside that bank whose capital is French for the greater part and which commands the strongest financial organization in Asiatic Russia and in the Far East.

3. The Russo-Asiatic Bank holds, under its contract with the Chinese Government, the right to issue paper money in Manchuria and is maintaining in China and Manchuria more than 85 branches, a condition which enables it to extend valuable assistance to the Allies.

Under the circumstances my Government does not think it would be fair or expedient completely to exclude the Russo-Asiatic Bank from the consortium, by applying at the same time and to the same extent the same measure to the Russians and Germans.

On the other hand the fact that the French and English groups while holding their rights under the contract will not assume their share in case of an early loan makes it possible not to pledge the future and to reserve under like terms the standing of the Russian group.

It is further proper to add that arrangements have been made to have that bank represented in the consortium board by a Frenchman, and that, in certain contingencies, the possible advantages of that circumstance would not redound to France alone. Besides, as a matter of course, as long as Russia is without a recognized government or a well-established financial organization in the banking business, it would be advisable for the Russo-Asiatic Bank to withhold its quota and keep in the background, but provision would be made to let it automatically resume its place and exercise its rights when Russia shall have been reconstructed and her financial conditions straightened.

In instructing me to draw the Federal Government's attention to the foregoing considerations, my Government wishes me to ask of your excellency that you kindly consent to have this question re-examined in point of law and of fact. It expresses to me in this connection the great satisfaction it would find in having the American Government join it in agreeing to reserve to the Russo-Asiatic Bank its seat in the consortium and thus making it plain to all in the Far East that while there is not at present any Russian Government properly so called, yet the Russian nation is still existent for its Allies who wish that it may in every respect and at the proper time resume the part that belongs to it.

Be pleased [etc.]

JUSSERAND

File No. 893.51/2042e

The Secretary of State to the French Ambassador (Jusserand)¹

No. 2249

WASHINGTON, October 8, 1918.

EXCELLENCY: On July 10, 1918, I had the honor to communicate to your excellency copies of confidential letters exchanged between certain American bankers and myself on the subject of the formation of an American group for the purpose of rendering financial assistance to China.

As appeared from the correspondence above referred to, it was the thought of this Government that the newly formed American group should be representative of the whole country and should include in its membership such banks as had a present interest in China as well as such banks as might desire to join the group and were acceptable both to the other members of the group and to this Government. Thirty-one banks have now joined the American group and are representatives of all sections of the country.

It was considered by all to be a reasonable condition of membership in the American group that all preferences and options for loans to

¹ The same, on the same date, to the British Chargé (No. 277) and to the Japanese Ambassador (unnumbered).

China held by any member of this group should be shared by the American group as a whole, and that all future loans in China which have any governmental guarantee should be conducted in common as group business, whether it was for administrative or for industrial purposes.

Such, in brief, were the principles underlying the formation of the American group so far as its own organization was concerned. It was the intention that all loans of the American group shall be automatically shared with and conducted in common by the international group when formed. It was frankly recognized that the war had created such a mutuality of interests between certain Governments and peoples as to render their cooperation essential to any constructive program of financial assistance to China. It was, therefore, the earnest hope of the Government of the United States that the other Governments which were largely interested in China and in a position to render substantial assistance at this time—namely, France, Great Britain and Japan—might see fit to join with this Government in its proposed plan and consent to the formation of similar national groups organized on the same basis to cooperate with the American group; for it was and is the firm conviction of this Government that only by such cooperation, and upon such principle, can the best results be obtained for China and for the common interests of the other powers concerned.

If each of the four Governments should form a group of its own which should include all those who have made or would like to make loans to China, and if each member should share with the other members of its national group all future loans, including those to which it has a preference or on which it has an option, there could be little or no objection in the financial circles of the respective Governments to such an arrangement.

Then if each of the four national groups should share with the other national groups any loans to China, including those to which that national group may have a preference or on which it may have an option, and all such business arising in the future, it is felt that the best interests of China would be served—a purpose which the Government of the United States has, in all sincerity, felt would have the cordial support of all the powers which have at heart the welfare of China.

The Government of the United States, in making its proposal was of course not unaware of the so-called "five-power consortium." It was not the purpose, however, of this Government in suggesting the formation of a new international group to interfere with any of the rights of that consortium. It was hoped that, as in the case of the American group, the new national groups to be formed might be made so broad as to include the members of the former consortium as well as others who had legitimate claims to such inclusion, so as to meet the larger needs and opportunities of China in a spirit of harmony and of helpfulness rather than of harmful competition and of self-interest.

The proposal as presented has given rise to various inquiries on the part of the several Governments to which it was addressed and I have the honor to hand your excellency herewith a memorandum covering the main points as raised. I should be happy if you would be so good

as to convey the information therein contained to your Government and solicit its favorable consideration and approval.

Accept [etc.]

ROBERT LANSING

[Enclosure]

MEMORANDUM

The Government of the United States is gratified at the cordial reception given, in principle, to the general plan for loans to China as recently presented to the respective interested Governments.

This Government is now happy to reply, in the following sense, to the several requests of those Governments for further information as to certain features of the proposed plan:

1. It is not intended that the American group, recently formed, should rejoin the existing consortium, but that there should be organized a new international group, consisting of representative financial institutions of the United States, Japan, Great Britain and France.

The plan, as proposed by the Government of the United States, does not contemplate that the former consortium should necessarily be dissolved, but that each of the Governments concerned should arrange for the formation of its own national group which it is hoped might be made so comprehensive as to include all those parties interested in the former consortium and such others, not so associated, who are engaged, or might engage, in loans to China, as well as any others whose participation might be desired.

Nor did the American Government, in making its proposal, have any specific loan in mind, but was endeavoring to lay down some general rule for future activities which might, in a broad way, meet the financial needs and opportunities in China. It was for this reason that no specific reference was made to the amount of the loan or loans to be raised, the revenues to be pledged or to the precise objects of the proposed loan. It was contemplated that these questions would be determined in respect to each case as it might arise.

With respect to the second or supplementary reorganization loan for purposes of currency reform, this Government is prepared to state in advance that it would be ready to recommend to the American group that it should not only take a part in that loan but be prepared to carry also, in conjunction with the Japanese group, the shares of the British and French groups, not only in this particular loan should it be included in the business of the new international group, but in such other loans as may develop while circumstances are such as to prevent their more active participation.

2. The reference to "a relinquishment by the members of the group either to China or to the group of any options to make loans which they now hold" applied primarily to the American group alone and to an agreement between the banks and the United States Government, whereby all preferences and options for future loans in China having any governmental guarantee and held by the individual members of the American group should be relinquished to the group which should, in turn, share them with the international group. Such relinquishment of options was considered by this Government to be a reasonable condition of membership in the American group; and while it is recognized that such [each] interested Government must necessarily make its own arrangements with its own national group, it is submitted that it is possible properly to conduct the business of the international group only by similar relinquishment to the respective national groups by the individual banks forming those groups, without distinction as to the nature of the options held.

3. The proposal of the Government of the United States contemplated that industrial as well as administrative loans should be included in the new arrangement for the reason that, in practice, the line of demarcation between these various classes of loans is not easy to draw. Both alike are essential fields for legitimate financial enterprise and both alike should be removed from the sphere of unsound speculation and of destructive competition. The intention of this Government was to suggest, as a means to that end, that the interested Governments should, by common consent, endeavor so to broaden the membership in the newly formed national groups that all financial firms of good standing interested in such loans might be included in the respective groups, and should withhold their support from independent financial operations without previous agreement of the interested Governments.

As regards the intergroup conference held in Paris, September 26, 1913, and the agreements to which the American group adhered, stating they had no objection to the elimination of industrial loans, it can only be said that the American group prior to that had withdrawn from active participation in the consortium and was, therefore, not in a position to object; but that it is now felt that with the establishment of a new group, the question may properly be reconsidered.

4. The expression "any terms or conditions of a loan which sought to impair the political control of China or lessen the sovereign rights of that Republic" had reference only to the future activities of the American group and was not intended to call in question the propriety of any specific arrangement in operation between the former consortium and the Chinese Government, or between any other Government and the Chinese. It can be definitely stated that the United States Government did not mean to imply that foreign control of the collection of revenues or other specific security pledged by mutual consent would necessarily be objectionable, nor would the appointment under the terms of some specific loan of a foreign adviser, as, for instance, to supervise the introduction of currency reform.

5. With respect to the Russian and Belgian groups and their rights in the former consortium, no present action is contemplated either by way of reservation as to the old or of participation in the new group. As previously stated, it is not anticipated that the existing consortium will necessarily be dissolved nor, on the other hand, do present conditions warrant the expectation that effective Russian and Belgian national groups could readily be formed at this time.

It is not the intention, however, of this Government to ignore, much less to exclude, any just claim of participation in the new international group, but merely, for practical considerations arising out of the war, to associate the interests of the Governments now so closely and actively associated and most able to finance the proposed loans to China, and to reserve for future consideration the inclusion of any other groups of friendly powers which may, at a later time, be in a position effectively to cooperate.

File No. 893.51/2042f

The Secretary of State to the Chinese Minister (Koo)

No. 82

WASHINGTON, October 8, 1918.

SIR: On July 10, 1918, I had the honor to communicate to you copies of confidential letters exchanged between certain American bankers and myself on the subject of the formation of an American group for the purpose of rendering financial assistance to China.

I have the honor now to enclose herewith for your information and for the information of your Government copy of an identic note with accompanying memorandum on the above-mentioned subject, which I have to-day handed to the representatives of Great Britain, France and Japan.¹

Accept [etc.]

ROBERT LANSING

File No. 893.51/2038a

The Secretary of State to the Ambassador in Japan (Morris)²

[Telegram]

WASHINGTON, October 8, 1918, 2 p. m.

I have to-day handed to the representatives of Japan, Great Britain, France, and China copies of an identic note and memorandum setting forth in full the purposes of this Government in its pro-

¹ *Ante*, p. 193.

² The same, *mutatis mutandis*, on the same date, to be repeated to the Minister in China, and to the Ambassador in Great Britain (No. 1878) to be repeated to the Ambassador in France (No. 5848).

posal, made in July last, to form an international group for rendering financial assistance to China. You may so state, informally, to the Foreign Office.

It is my desire to center the further negotiations in Washington and the memorandum above referred to has accordingly been made responsive to the various communications received from the several governments including the memorandum from the Japanese Government transmitted in your telegram of August 26, 8 p. m.

The following summary is for your information and for future reference:

1. It is proposed that a new international group be organized consisting of representative national groups of the United States, Japan, Great Britain and France. The plan does not necessarily imply dissolution of former consortium, but formation of new national groups each so comprehensive as to include members of former groups as well as others whose participation may be desirable.

This Government had in mind no specific loan but rather a general plan for dealing with future loans. It will, however, recommend the American group to join in the supplementary reorganization loan for currency reform, if desired, and to carry for the time being in conjunction with the Japanese group the shares of the British and French groups in this and future loans.

2. "Relinquishment of all options" applied primarily to American group alone and was condition of membership in the group. Each government must make its own arrangements with its national group, but similar relinquishment of options is considered reasonable and essential to any cooperative plan of financial assistance to China.

3. Industrial as well as administrative loans should be included in the new arrangement, since both classes should be safeguarded against unsound speculation and destructive competition. No charge of discrimination could be made if the membership in the new national groups be broadened to include all interested parties of good standing; and each government should by common consent, withhold support from any others without previous agreement.

4. The reference to "terms and conditions of loans" applied only to future activities of American group. It was not implied that foreign control of collection of revenues pledged by mutual consent was necessarily objectionable, nor the appointment of advisers for specific purposes such as currency reform.

5. The inclusion of Russian and Belgian national groups seems impracticable under present conditions and is reserved for future consideration without prejudice to any existing rights or to any just claims to such participation.

Repeat to Peking.

LANSING

File No. 893.51/2079

The Minister in China (Reinsch) to the Secretary of State

[Telegram—Extracts]

PEKING, December 10, 1918, 5 p. m.

Referring to my cable of November 18, 5 p. m.¹ I have the honor to ask information whether negotiations for American participa-

¹ Not printed.

tion in Chinese finances are entirely completed and whether a representative is being sent to participate in negotiations here and to study the situation. I must recommend urgently that this may be no longer delayed. Unless special attention can now be given to the Chinese situation far greater dangers will develop than that which has been overcome in Europe.

While the transfer of reorganization loan funds must await complete reconciliation [?], yet now is the time to work out a policy. Without a definite policy based upon first-hand knowledge of the essential facts no beneficial effects can be expected. Moreover, participation of an American representative in the preliminary currency reform loan negotiations is indispensable to protect American interests.

The situation here is as follows: The President is thoroughly devoted to a policy of peace and civilian representative Government, but considering the debauched condition of the Government due to military rivalries, incompetence and Japanese hostility, the President needs positive support. Assurances of financial support after reunion will probably be given by the four representatives within a few days, but this should be immediately followed by laying the foundation of a sound constructive system, otherwise the President's policy, opposed by military extremists in the north and radical extremists in the south, will be left hanging in the air.

The President has given me private assurance that in connection with reorganization loan he will accept international auditing control of sources of revenue and application of funds. He desires a real disbandment of troops and in order that . . . the military police and reduced army be made efficient and protective to the people he is willing to place the matter in the hands of a military commission composed of [Chinese?] and foreign members. . . .

Funds are necessary for paying off troops and for all necessary colonization and public works to give them employment thereafter. . . .

I have the honor to ask full information as to the policy of the American Government and action immediately proposed.

REINSCH

The Acting Secretary of State to the Minister in China (Reinsch)

[Telegram—Extract]

WASHINGTON, December 18, 1918, 8 p. m.

Your December 10, 5 p. m. Preparation for American participation in Chinese finances are completed as far as the United States is concerned and the policy of this Government as to the essential bases of financial assistance to China is unchanged (see Department's telegram of October 8, 2 p. m., and mail instruction of October 9, 1918¹). Until the Governments of France, Great Britain, and Japan agree, the Government of the United States does not feel that it should independently proceed with general loan propositions. An inde-

¹ Not printed.

pendent policy pursued by the United States at this time would result in competition with other governments and would endanger the successful formation of the international group as proposed. Consequently it is the policy of this Government at this time not to take any such action but to await the agreement of the other governments to the proposed plan and to do all in its power to expedite such agreement. The matter is being pressed in Washington through the representatives here of the various governments mentioned.

The currency reform and reconstruction loans are included under the general terms as proposed by the United States to the other Governments. . . .

Such matters as the demobilization of troops and the formation of a military police force may demand consideration in the near future as a result of the progress towards reconciliation, but it is felt that any such assistance should be restricted to the immediate needs and should be entirely consistent with the larger comprehensive plans under consideration. The Department will accordingly recommend to the American group that it meet the request of the representatives of the British and French groups as transmitted in your November 8, 5 p. m.,¹ by sending a representative to Peking for the purpose of obtaining information and advising as to the measures to be taken to meet conditions as they arise.

POLK

RAILWAY CONCESSIONS²

Proposed Elimination of German Interests from the Hukuang Railway Enterprise; Protest of Great Britain against the Siems-Carey & Co. Contract; Temporary Cessation of Railway Surveys under the Siems-Carey & Co. Contract; Concession to the Japanese Industrial Development Bank for a Railway from Kirin to Hueining; Concessions to Japan in Manchuria, Mongolia, and Shantung

File No. 893.77/1656

The French Ambassador (Jusserand) to the Secretary of State

[Translation]

WASHINGTON, February 5, 1918.

MR. SECRETARY OF STATE: The attention of the Government of the Republic has been drawn to the advantage that could be taken of existing circumstances in recasting the agreements that now bind the Allied financial groups with regard to the Hukuang lines so as to eliminate the German group.

These agreements for which there is a historic explanation are irksome to all and a never-ending source of conflicts. The French group represented by the Banque de l'Indo-Chine thinks it would be beneficial to start them anew on entirely different bases and that by heeding the lessons of past experience an agreement may be arrived at that is likely to live and will be acceptable to the Chinese besides securing the future of the lines.

¹ Not printed.

² Continued from *Foreign Relations*, 1917, pp. 160-207.

The representative of the French group broached the question to his American colleague who coincides in his views and drew up on the subject favorable recommendations that are no doubt known to his Government. The English representative likewise thinks it necessary to perfect a new agreement before the end of the war, and has also made his opinion known in London. Under these conditions it seems that the negotiations which were begun in 1914 on the subject can be resumed at once and speedily carried to a successful conclusion.

But before taking active steps in these new negotiations the financial groups would like to have the three Governments concerned agree on the principle. The initiative of the French group meets with the full approval of the Government of the Republic which wishes me to draw your excellency's attention to the great interest which attaches to taking away from our enemy the power to resume his place in the former Hukuang agreement at the end of the hostilities.

Mr. Pichon would be glad if your excellency could find it possible to concur in this opinion and advise the American group that you would countenance negotiations in that direction with the French and English groups.

Be pleased [etc.]

JUSSERAND

The Secretary of State to the French Ambassador (Jusserand)

No. 2069

WASHINGTON, February 15, 1918.

EXCELLENCY: I have the honor to acknowledge the receipt of your excellency's note of the 5th instant communicating the views of your Government in support of the proposals of the French and British groups concerned that the Hukuang Railway agreements should be recast in such a manner as to eliminate the German group from further interest therein.

I shall be glad to have you say to your Government that its suggestions will have my very careful consideration, and that as soon as a decision is reached in regard to the matter I shall have pleasure in communicating it through your excellency.

Accept [etc.]

ROBERT LANSING

File No. 893.77/1667

The Minister in China (Reinsch) to the Secretary of State

No. 2142

PEKING, June 29, 1918.

SIR: In connection with my despatch No. 1736 of November 1917,¹ relating to the protest of the British Government against the proposed construction by an American corporation of certain railways in the Provinces of Hupeh and Hunan, I now have the honor to enclose a translation of a note from the Ministry for Foreign Affairs to the British Minister under date of June 21, 1918, in answer to said British protest. It will be seen the essential point in the answer

¹ *Foreign Relations, 1917*, p. 204.

of the Chinese Government is that, as the main agreement to which the letter of the Hukuang Viceroy refers has now no force, by the terms of the agreement itself, the letter which was an addendum thereto has also ceased to have force.

I have [etc.]

PAUL S. REINSCH

[Enclosure—Translation]

The Chinese Minister for Foreign Affairs (Lu Cheng-hsiang) to the British Minister (Jordan)

June 21, 1918.

EXCELLENCY: I had the honor to receive a note from Mr. B. F. Alston, Chargé d'Affaires, in which he stated that the railways included in the agreement between the Chinese Government and American merchants, the International Corporation, were an encroachment on the railways specified in the Hu-Hang-Yung (Shanghai-Hangchow-Ningpo) Railway agreement, and also were inconsistent with the note formerly given by the Hukuang Viceroy to the British Consul at Hankow.

This Ministry has referred the matter to the Ministry of Communications with instructions to investigate carefully. That Ministry now replies as follows:

1. Regarding the claim based on the Hu-Hang-Yung agreement, in the 19th article of the said agreement it is specifically stated that the agreement includes the construction of branch roads. The Wen-Hang (Wenchow to Hangchow) Railway is a main line of the Chinese system, in length 400 to 500 li, and cannot be considered a branch road of the Hu-Hang-Yung line. Since this road cannot be considered a branch line of the Hu-Hang-Yung Railway, Article 19 of the agreement can have no reference to it.

2. With reference to the note formerly given the British Consul at Hankow by the Hukuang Viceroy, it is clearly stated in Article 2 of the Hongkong agreement that when the capital and interest have been paid the agreement shall be canceled. The note referred to was an addendum to the said agreement. The capital and interest specified in the agreement have long been paid and so the agreement has now no force, so any addendum to the agreement has also ceased to have force.

As in duty bound we send to your excellency the report of the Ministry of Communications.

[File copy not signed]

File No. 893.77/1671

The Chargé in China (MacMurray) to the Secretary of State

[Extract]

No. 2148

PEKING, July 13, 1918.

SIR: I have the honor to enclose herewith a translation (from the official Chinese text as published in the Government *Gazette* of the 29th ultimo) of the contract concluded on June 18 last between the Chinese Government and the Japanese Industrial Development Bank acting on its own behalf and that of the Chosen and Taiwan Banks, for a loan for the construction of a railway from Kirin to Hueining (believed to be identical with the place given as Hoiryong on some maps) on the Korean side of the Tumen River. There is also enclosed a translation, as printed in the Peking *Times* of the 2d instant, of the official statement on the subject of this loan, made by Mr. Ts'ao Ju-lin, Minister of Communications.¹

¹ Not printed.

In commenting upon the terms of this loan it should be stated that the Ssupingkai-Chengchiatun Railway contract, to which reference is made in Article 6 of this agreement, is to be identified with the contract of December 27, 1915, of which a copy was forwarded to the Department with the Legation's despatch (No. 1331) of January 3, 1917.¹ The Tientsin-Pukow agreement, to which reference is made in Article 7, is that of January 13, 1908, the text of which is printed at page 61 of the 1908 supplement to Rockhill's *Treaties*. . . .

I have [etc.]

J. V. A. MACMURRAY

[Enclosure—Translation]

The Kirin-Hueining (Ki-or Chi-Huei) Railway loan: Preliminary agreement²

For the purpose of constructing the railway from Kirin in the Republic of China [to] Hueining through the southern part of Yenki and the Tumen River the Government of the Republic of China (hereafter called A) hereby enters into the present preliminary agreement with the three Japanese banks, the Japanese Industrial Development Bank, the Chosen Bank and the Taiwan Bank, represented by the Industrial Development Bank (hereafter called B) as the basis of a formal loan agreement for the same railway:

ARTICLE 1

A shall with due promptness outline the amount of funds required for the construction of the railway and other items of necessary expenditure and bring it to the notice of B for its consent.

In accordance with the amount of funds required as referred to above, B shall issue 5 per cent public loan bonds of the Republican Government of China in gold currency for A.

ARTICLE 2

The period for the redemption of the present loan shall be limited to forty years. Redemption of the loan shall begin from the eleventh year calculating from the date of the issue of the bonds and the method of yearly instalment redemption shall be followed.

ARTICLE 3

As soon as the formal agreement for the Ki-Huel Railway loan is signed, A shall begin to construct the line so as to hasten its completion.

ARTICLE 4

A shall build the railway bridge over the Tumen River conjointly with the railway department of the office of the Japanese Governor General for Korea and shall share half of the expenses thereof.

Regarding the through traffic between this railway and the railway in Korea, a separate agreement shall be entered into with a view to developing the traffic and securing the smooth cooperation of the two railways concerned.

ARTICLE 5

A shall pledge the following assets to B as security for payment of interest and redemption of the present loan bonds:

All the property owned by and the revenue due to the railway either at present or in the future.

Without the approval of B, A shall not offer either the property or the revenue of the railway to others as loan security.

¹ *Foreign Relations*, 1917, p. 161.

² Extract from the Government *Gazette* of June 29, 1928.

ARTICLE 6

The actual amount of funds to be received by A out of the issue of the present loan bonds shall be such as to be more profitable to A than what is stipulated in the Ssupingkai-Chengchiatun Railway loan agreement concluded on December 17 of the 4th year of the Republic.¹

The rate at which the present loan bonds are to be issued shall be fixed according to the circumstances under which they are issued.

ARTICLE 7

Regarding the particulars which are not provided for under the foregoing articles they shall be decided upon by A and B in accordance with the Tientsin-Pukow Railway loan agreement signed on the 10th of the 12th moon of the 33d year of Kuanghsü.

ARTICLE 8

The present preliminary agreement shall be the basis of the formal agreement for the Ki-Huei Railway loan, which shall be concluded within six months after the conclusion of the present preliminary agreement.

ARTICLE 9

Upon the conclusion of the present preliminary agreement, B shall pay to A an advance of \$10,000,000 in full without any deduction for commission.

ARTICLE 10

The advance referred to above shall bear 7½ per cent interest per annum; that is, 7½ yen shall be paid for the yearly interest of every 100 yen.

ARTICLE 11

The advance shall be paid to A in specie in exchange for the Treasury bonds issued by A.

ARTICLE 12

The Treasury notes mentioned in the foregoing article shall be subject to change every six months. At each occasion of their change for new ones, the interest due for the said period shall be paid to B.

ARTICLE 13

After the conclusion of the formal agreement for the Ki-Huei Railway loan, the advance shall have the preferential right of being repaid with the proceeds from the issue of the loan bonds referred to above.

ARTICLE 14

The payment of the advance, its redemption and the payment of its interest and other transactions in connection therewith shall be carried out at Tokyo.

Two copies of the present preliminary agreement shall be written in the Chinese language and two copies in the Japanese language and A and B shall each keep one copy written in each language. In case any dispute arises with regard to the interpretation of the agreement, the text of the one written in Japanese shall be considered as authoritative.

Ts'AO JU-LIN, { *Minister of Communications,*
Minister of Finance,

TU-FANG-CHIN-CHENG (MAKAWA?), *President of the Hsing
 Yeh Bank acting for Chen-ch'u'an hsiao-yen,*
 For the Imperial Japanese Government

¹ *Foreign Relations, 1917, p. 163.*

File No. 893.77/1670

The Vice President of the American International Corp. (R. P. Tinsley) to the Secretary of State

NEW YORK, August 9, 1918.

SIR: I have the honor to enclose to the Department, for its information and the Department's archives, copies of certain correspondence from the Siems-Carey Railway & Canal Co. in Peking, relative to the cessation on account of disturbed political conditions of the railway surveys in China which were being carried out in pursuance of a contract with the Chinese Government. With this correspondence will be found a memorandum from the corporation's attorney regarding the status of the railway work as a result of the cessation of the surveys.¹

I have [etc.]

R. P. TINSLEY

[Enclosure]

The Vice President of the Siems-Carey Railway & Canal Co. (F. C. Hitchcock) to the Minister in China (Reinsch)

PEKING, June 3, 1918.

SIR: With reference to my letter to you of May 15, enclosing copies of correspondence *re* withdrawing engineering survey party from Szechuan Province, on account of danger:

Under date of May 25, Mr. G. A. Kyle, chief engineer of the Chouchiakou-Hsiangyang Railway, recommended to Mr. T. C. Sun, managing director, that the survey party be recalled to Peking on account of danger from bandits, and owing to the fact that that portion of Szechuan was under the control of Southern generals, thus making it impossible for the officials at Peking to afford protection to the party.

The managing director agreed with Mr. Kyle in this recommendation, and instructed the chief engineer to order the party to return to Peking at once.

It is with the utmost reluctance that we withdraw this party, but we agree with Mr. Kyle and Mr. Sun that it is unsafe at present for the party to continue the work, and we have agreed to the withdrawal.

For your information and files, I beg to attach hereto, copies of correspondence bearing on the subject, as per accompanying list.

Yours very truly,

F. C. HITCHCOCK

[Subenclosure]

The Managing Director of the Chouchiakou-Hsiangyang Railway (T. C. Sun) to the Chief Engineer (G. A. Kyle)

CHINESE GOVERNMENT RAILWAYS,
PEKING, May 27, 1918.

DEAR SIR: I have your letter dated May 25, 1918, with reference to continuing the survey of the Chouchiakou-Hsiangyang Line in Szechuan Province and recommending that in view of the disturbed condition of the province party 106 under District Engineer J. A. Collins be instructed to return to Peking. I have given this matter careful consideration and am also convinced that it is preferable to defer our surveying operations in that province until the situation becomes more favorable. I am, therefore, in favor of having your recommendation immediately carried out.

Yours faithfully,

T. C. SUN

¹ Not printed.

File No. 893.77/1693

The Japanese Embassy to the Department of State

WASHINGTON, undated.

[Handed to the Secretary by the Ambassador,

October 30, 1918.]

On the 25th September last, the Japanese and Chinese Governments came to an agreement the substance of which is as follows:

The Japanese Government engage to withdraw to Tsingtao all military guards stationed along the Shantung Railway, with the exception of a contingent at Tsinan. The policing of the evacuated districts will be left to the Chinese authorities and the Japanese civil administration hitherto maintained along the line will be removed. The Shantung Railway shall eventually be converted into a joint enterprise of Japan and China.

The Chinese Government on the other hand will undertake to construct with Japanese capital the railway lines as understated:

In Manchuria and Mongolia—

- (1) Between Kaiyüan and Kirin via Hailun,
- (2) Between Changchun and Taonan,
- (3) Between Taonan and Jehol,
- (4) From a point on Taonan-Jehol line to seaboard (the route to be determined after survey);

In Shantung—

- (1) Between Tsinan and Shunteh,
- (2) Between Kaomi and Suichow.

In case these two lines are found inadvisable, separate route or routes will be determined by mutual consultation.

As an advance to the expense for the construction of the above-mentioned lines, a loan of 40,000,000 yen will be made to the Chinese Government by the Japanese Government.

It may be noted that the projected lines in Shantung are within the scope contemplated in Article 1 of the Sino-Japanese treaty respecting the Province of Shantung of 1915, the particulars of which were made known to the American Government at the time of its conclusion. Those in Manchuria and Mongolia are substantially in line with the stipulations of the agreement concluded between the Japanese and Chinese Government in 1913,¹ a copy of which agreement was delivered to the American representative in Peking in the early part of the last year.

File No. 893.77/1708

The Minister in China (Reinsch) to the Secretary of State

No. 2379

PEKING, December 3, 1918.

SIR: Supplementing my despatch No. 2142 of June 29, 1918, on the subject of the protest of the British Government against the proposed construction by an American corporation of certain rail-

¹ *Foreign Relations, 1917*, p. 176.

ways in the Provinces of Hupeh, Hunan and Chekiang, I have the honor to enclose copies of the translation of the Chinese text¹ of a note addressed to the Chinese Ministry for Foreign Affairs by the British Minister and of the reply of the Ministry thereto.

The Legation fully agrees with the position taken by the Chinese Government in this matter, both as regards the claim that the line contemplated between Hangchow and Wenchow cannot be considered as a branch of the British railway connecting Shanghai, Hangchow and Ningpo, and as regards the second claim of the Chinese Government that the letter from the Viceroy of Hukuang can properly be considered to have been merely an addendum to the main agreement to which the letter refers, and hence has now no force by the termination of the agreement itself.

I have [etc.]

PAUL S. REINSCH

[Enclosure 1—Translation]

The British Minister (Jordan) to the Chinese Minister for Foreign Affairs (Lu Cheng-hsiang)

PEKING, July 16, 1918.

EXCELLENCY: I have the honour to acknowledge the receipt of your note of June 21 on the subject of the loan contract for the construction of railways, entered into between the Chinese Government and the American firm known as the American International Corporation.

I cannot but express my surprise that, after over a year of deliberation, in the course of which a settlement was arrived at with regard to the former rights appertaining to British merchants, on the strength of the arguments advanced by the Ministry of Communications, thus casually annul those rights.

With regard to the question of a railway line from Wenchow to Hangchow, it is the same sort of argument to say that such a railway would constitute a branch of the Shanghai-Hangchow-Ningpo Railway as to say that it would not be a branch line. As the agreement was entered into by two parties, one of the parties cannot independently decide such a question, as to whether such a railway would or would not be a branch line, and on the strength of its own *ex parte* decision grant the right to build such a road to a third party.

As to your statement that the force of the note from the former Viceroy of Hukuang to the British Consul General at Hankow, of September 9, 1909 [1905]² was limited to the period during which the loan agreement with the Hongkong Government had force, I cannot admit that you have shown proof of this. Neither the note in question nor the loan agreement contain phraseology that would support the contention of the Ministry of Communications. Should you desire further proof of the entire lack of foundation for the contention of that Ministry, I would refer to the correspondence which took place in October and December 1916, between this Legation and your Ministry on the occasion of the repayment of the capital and interest on the loan in question, with regard to the question of the cancellation of the documents involved. From that correspondence you will see the circumstances surrounding the urgent request of the Ministry of Communications for the return of the agreement papers. It seems hardly believable that if the note from the Viceroy became of no effect equally with the agreement itself, the Ministry of Communications would have neglected to ask for the return of the note when the agreement was returned. In short, the repayment of the loan and the validity of the Viceroy's note have absolutely no relationship.

I therefore have the honour to inform you that my Government wishes to enquire with regard to these undertakings whereby the Chinese Government

¹ At the request of the British Government, the official British texts of the enclosed notes, which were not received until Sept. 10, 1928 (File No. 026 Foreign Relations/186), are also here printed.

² *Foreign Relations*, 1917, p. 206, enclosure to Mr. Reinsch's No. 1757, November 26, 1917.

turns over to others rights for the construction of railways in the three Provinces of Chekiang, Hupeh and Hunan which belong to British financial interests.

A necessary despatch, etc.

[File copy not signed]

[Enclosure 1—British official text]

PEKING, July 16, 1918.

SIR: I have the honour to acknowledge the receipt of your excellency's note of the 21st ultimo on the subject of the railway loan agreements concluded with the American firm of Messrs. Siems, Carey & Co. and to express my surprise that, after a year's consideration of this question, the Chinese Government should have come to the conclusion that rights formally granted to British subjects can be arbitrarily extinguished by means of arguments such as those now put forward by the Ministry of Communications.

As regards the line from Hangchow to Wenchow this may just as reasonably be held to be a branch of the Shanghai-Hangchow-Ningpo line as not and it is certainly not open to one party to an agreement to decide arbitrarily and without any reference to the other party that it is not a branch and proceed to give the right of construction to a third party.

The statement that the note addressed by the Viceroy of Hukuang on the 9th September 1905, to His Majesty's consul general at Hankow was only effective during the currency of the Hongkong Government loan agreement is even more unfounded. There is not a word either in the note or in the loan agreement to support the statement of the Ministry of Communications, and if further proof is necessary of complete inaccuracy of their contention, I have only to invite your excellency's attention to the correspondence which took place between the Wai-chiao Pu and this Legation, between October and December 1915, on the subject of the cancellation of the documents relating to this loan on payment of the final instalment thereof.

In view of the insistence shown by the Ministry of Communications at that time, it is inconceivable that they should have omitted to ask for the return of the Viceroy's note if they really believed it to have become of no effect with the extinguishment of the loan agreement.

In short, the validity of the note in question is in no way affected by the repayment of the loan, and I accordingly have the honour to inform your excellency that His Majesty's Government maintain their protest against the action of the Chinese Government in granting to other parties rights of railway construction in the provinces of Chekiang, Hupeh, and Hunan, already reserved for British enterprise.

I avail [etc.]

J. N. JORDAN

[Enclosure 2—Translation]

The Chinese Minister for Foreign Affairs (Lu Cheng-hsiang) to the British Minister (Jordan)

PEKING, October 8, 1918.

EXCELLENCY: I have the honor to acknowledge the receipt of your note of July 16 on the subject of the loan contract for the construction of railways entered into between the Chinese Government and the American firm known as the American International Corporation. Your note was referred to the Ministry of Communications asking that it carefully investigate the matter and reply. That Ministry has now replied as follows:

SIR: Your note "Ho" No. 451 has been duly received and carefully perused. This Ministry has to observe that the Wenchow-Hangchow Railway, which has a length of four or five hundred Chinese miles and passes through an important region of China, cannot but be recognized as a main-line railway. The British Minister, however, states in his note that inasmuch as the contract has been entered into by two parties, one party cannot arbitrarily decide that the railway is not a branch-line railway. We would observe that the agreement in question does not state that the determination of railway routes must be based on the agreement of both parties. There is no such stipulation. This Ministry has complete authority in matters connected with communications.

The note of the former Viceroy of Hupeh to the British Consul General at Hankow written in 1905 states:

I regard the method suggested through your office for the making of a loan for the purpose of redeeming the Canton-Hankow Railway to be just. In future, if China herself does not provide funds for the construction of such a railway, should a loan be needed from outside sources, application therefor shall be first made to Great Britain.

It is evident that the privilege granted by this note arose out of and concerned the Canton-Hankow Railway loan. The agreement and the note were signed on the same day. Hence this Ministry regards the note in question as a supplementary document attached to the agreement. There is sufficient ground for such a position.

Now, at the time of making the Hukuang Railway loan the United States, France and Germany were included as parties to the agreement. At that time Great Britain offered no objection to their inclusion, thus admitting that the note referred to above was null and void. As to the query of the British Minister as to why, in the fourth year of the Republic (1915) when the capital and interest of the original loan were returned, and when the Ministry of Communications asked for the return of the loan agreement so that it might be canceled, it did not ask for the return of the note under discussion, this Ministry recalls that the British Minister, with reference to the matter of the request of the Ministry for the return of the agreement, remarked, in a note dated December 20, 1915, that "Any contract naturally became null and void at the end of the period of validity." It is apparent from this that the British Minister did not consider our action at the time in requesting the return and cancellation of the agreement as a matter of any importance. Hence, whether we fail to ask for the cancellation of the note in question (which is nothing more than a supplementary article of the agreement) or not, ought not to give rise to any question whatsoever.

The opinion of this Ministry being as indicated above, it is requested that your excellency reply in this sense to the British Minister.

The above note from the Ministry of Communications is brought to your excellency's esteemed attention.¹

A necessary despatch, etc.

[File copy not signed]

¹At the request of the British Government, the following text of the British reply to this note (received Sept. 10, 1928—File No. 026 Foreign Relations/186) is here printed:

December 7, 1918.

In reply to your excellency's note of the 8th October on the subject of the agreements concluded between the Chinese Government and the firm of Messrs. Siems, Carey & Co., for the construction of lines of railway from Hangchow to Wenchow, and from Ch'uchow in Hunan to Ch'inchow in Kuan tung, I can only reiterate that in the opinion of His Majesty's Government the grant of these rights to the above-named firm conflicts with prior British rights. As your excellency is well aware, it is not the policy of His Majesty's Government to adopt an attitude of obstruction against beneficial projects for railway development in China, and, least of all, to oppose the enterprise of an American firm. But they feel justified in holding the view that the grant to Messrs. Siems, Carey & Co. of the rights in question was made deliberately by the Ministry of Communications with the full knowledge that it would be met by a protest from the British side. In the same manner, I am informed, they assigned to same firm certain rights of railway construction in North China, with the inevitable consequence of evoking a similar protest from another legation.

Since it is probable that the question of railway development in China with foreign capital will be comprehensively reviewed at the termination of the European War by the British, America[n], and other Governments interested in the matter, I suggest for your excellency's consideration that further correspondence on this particular subject should be deferred.

In the meanwhile I have the honour to request that the protest which has been made in this matter may be duly noted by the Chinese Government, and that the Ministry of Communications may be called upon to take no further action to the detriment of the prior British rights involved.

I have [etc.]

J. N. JORDAN

[Enclosure 2—British official translation]

October 8, 1918.

SIR: I have the honour to acknowledge receipt of your excellency's note of the 16th July on the subject of the railway loan agreements concluded between the Chinese Government and the firm of Messrs. Siems, Carey & Co.

Your excellency's note was referred by this Ministry to the Ministry of Communications, which has now replied in the following terms:

The Hangchow-Wenchow line is 400 or 500 li. in length, and lies in an important district of China. In view of these facts this Ministry cannot do otherwise than regard it as a main line. As regards the statement in the British Minister's note, that it is not open to one party to an agreement to decide arbitrarily that a line is not a branch, it is to be noted that the agreement contains no stipulation that the consent of both parties is required to decisions regarding routes, and, in the absence of any such provision, this Ministry, being charged with the control of the communications of the country, has the full right of making such decisions.

With regard to the note addressed by the former Viceroy of Wuchang to the British consul general at Hankow in 1905, that note contains the following words: "In view of your services in obtaining for me the present loan for the resumption of the Canton-Hankow Railway, and the very fair terms on which it has been arranged . . . as regards funds for the future construction of the Canton-Hankow Railway, in case it is necessary to borrow abroad in addition to the amount China may herself provide, the first application shall be made to England." From this it is clear that rights conferred arose out of the Hongkong Government loan agreement; the note was, moreover, signed on the same day as the agreement. Accordingly, the view always hitherto held by this office, that the note was an annex to the agreement, is entirely reasonable. Again, on the occasion of the negotiation of the Canton-Hankow-Szechuan Railway loan, the United States of America, France, and Germany all took part, but Great Britain raised no protest, whence it may be inferred that she tacitly admitted that the note had ceased to be effective.

The British Minister observes also that at the time of the repayment of the loan in 1915, this office show[ed] insistence in demanding the return of the loan agreement for cancellation; and he asks how it is possible that we failed to ask for the return of the note. It may, however, further be recalled that, in connection with this Ministry's demand for the return of the agreement, Sir John Jordan addressed a note to the Wai-chiao Pu on the 20th December 1915, containing the remark that "when an agreement terminates, it is *ipso facto* cancelled." This shows that he attached no significance to the omission. The point as to whether or not this Ministry omitted to ask for the cancellation of the note (which was nothing more than an annex to the agreement) should not, however, give rise to any legal question whatever.

I have the honour to reply accordingly to your excellency's note.

I avail [etc.]

[File copy not signed]

OPIUM AND MORPHINE TRAFFIC IN CHINA

Purchase by the Chinese Government of Reserve Stock of Opium and Mandate for the Destruction thereof

File No. 893.114/165

The Secretary of State to the Minister in China (Reinsch)

[Telegram]

WASHINGTON, July 10, 1918, 4 p. m.

A cablegram dated July 3 from Peking to American newspapers reports that Chinese Government has agreed to purchase opium stocks of Shanghai combine for Treasury bills intending to resell,

Please investigate and report. If true, you are instructed to say to the Minister for Foreign Affairs that the American Government which has been so greatly interested in the suppression of the opium traffic and received such earnest support from China regrets profoundly that action seemingly of a retrograde character is being taken.

LANSING

File No. 893.114/168

The Minister in China (Reinsch), en route to Washington, to the Secretary of State¹

[Telegram—Extract]

TOKYO, July 10, 1918, 6 p. m.

I beg to suggest that while the corrupt transaction for the purchase by the Government of the opium stocks held by the Shanghai combine is an accomplished fact the dangerous consequences to be expected therefrom might be moderated if the attention of the Chinese Government were pointedly called to the vital importance of not jeopardizing the results of national and international opium reform work as already accomplished and as contemplated under the Hague draft treaty ratified by the United States and China. . . .

I expect to arrive Washington August 3.

REINSCH

File No. 893.114/167

The Chargé in China (MacMurray) to the Secretary of State

[Telegram—Extract]

PEKING, July 20, 1918, 10 p. m.

Your July 10, 4 p. m. I am requested by the Acting Minister for Foreign Affairs to assure you that the decision of the Chinese Government to purchase the 1,600 chests of opium remaining in the hands of the combine contemplates its use solely for medicinal purposes and that there will be no retrogression from the policy of opium suppression hitherto followed by this Government. In promising to convey this assurance I took occasion to express the regret which our Government would feel if this were not the case. . . .

MACMURRAY

File No. 893.114/172

The Secretary of State to the Ambassador in Great Britain (Page)

[Telegram]

WASHINGTON, August 28, 1918, 10 p. m.

1056. The American Legation at Peking in a strictly confidential telegram gives information of a plan entertained by certain members of the Chinese Government to revive the opium trade under control of a monopoly. It is said to be their purpose to buy for this purpose

¹Forwarded by the Ambassador in Japan.

the stocks of opium now in Shanghai. Please inquire discreetly at the British Foreign Office whether any measures are in contemplation there looking towards the prevention of this reactionary movement which would undo all that Great Britain and India have made such sacrifices to achieve.

LANSING

File No. 893.114/174

The Ambassador in Great Britain (Page) to the Secretary of State
[Telegram]

LONDON, September 4, 1918, 5 p. m.

1616. In reply to your telegraph 1056, August 28, 10 p. m. Foreign Office have been informed that an agreement between the Chinese Government and the combine of opium importers at Shanghai has been concluded by which the former will take over 1,700 chests of opium in bond at a price of 6,000 taels per chest payable in 6 per cent national bonds maturing in ten years and the drug will be resold to a syndicate.

The manner in which these stocks of opium will be disposed of has not been communicated officially to the Foreign Office. But according to a statement reported to have been made by the combine when announcing the signatures to the agreement, the syndicate to which the Chinese Government will resell the opium is to comprise certain leading Chinese officials and former Canton opium monopolists with headquarters at Nanking. Will work under a Government monopoly and will sell their own stocks as well as other foreign opium.

British Government have neither participated in nor given their official countenance to the negotiations between the Chinese Government and the opium combine for the requisition by the former of the stocks of Indian opium remaining in bond in Shanghai and Canton on the expiration of the opium agreement of 1911. On the contrary the British Government highly disapproves of the transaction which they hope the Chinese Government may yet be persuaded to abandon.

PAGE

File No. 893.114/172

The Secretary of State to the Chargé in China (MacMurray)

[Telegram]

WASHINGTON, September 7, 1918, 6 p. m.

Your August 26, 11 a. m.¹ The Department is informed that the British Government has neither participated in nor given its official countenance to the negotiations between the Chinese Government and the opium combine but, on the contrary, highly disapproves of the transaction which it hopes the Chinese Government may yet be persuaded to abandon. The Department sincerely regrets that the

¹ Not printed.

information it has received makes it plain that the plan in contemplation for the disposition of opium stocks is in contravention of the spirit of the Hague draft treaty ratified by the United States and China and jeopardizes all the beneficial results that have been accomplished, at so much sacrifice, towards the suppression of the opium traffic. You will therefore make earnest representations to the Chinese Government in this sense, cooperating as closely as possible with your British colleague.

LANSING

File No. 893.114/174

The Secretary of State to the Ambassador in Great Britain (Page)

[Telegram]

WASHINGTON, September 13, 1918, 3 p. m.

1347. Your 1616, September 4, 5 p. m. Substance telegraphed to Peking. Legation has also been advised that the information which the Department has received makes it plain that the plan in contemplation for the disposition of opium stocks is in contravention of the spirit of the Hague draft treaty ratified by the United States and China and jeopardizes all the beneficial results that have been accomplished, at so much sacrifice, towards the suppression of the opium traffic. Legation will make representations to the Chinese Government in the above sense and has been instructed to cooperate as closely as possible with the British Minister. You will so inform Foreign Office and express the hope that British Minister at Peking will be instructed to make similar representations.

LANSING

File No. 893.114/175

The Chargé in China (MacMurray) to the Secretary of State

[Telegram]

PEKING, September 21, 1918, 11 a. m.

In pursuance of your telegram September 7, 6 p. m. I have consulted with British Minister who advised me that he was without instructions in the matter but that he would telegraph his Government that by your direction I had approached him on the subject. I have addressed to the Minister of Foreign Affairs a separate protest against opium transaction in the sense of your telegram cited.

MACMURRAY

File No. 893.114/176

The Ambassador in Great Britain (Page) to the Secretary of State

[Telegram]

LONDON, September 24, 1918.

2246. Your 1347, September 13, 3 p. m. The Foreign Office expresses appreciation of the action which you propose to take at Peking regarding the opium trade. Instructions have been sent to

Sir John Jordan to protest strongly to the Chinese Government against the recent transaction with the opium combine at Shanghai, basing his representations on grounds different from those you have instructed the Chargé d'Affaires at Peking to make, though essentially of the same character. Mr. Balfour adds that the British Minister at Peking will be materially assisted by the suggested cooperation of our representative.

PAGE

File No. 893.114/185

The Minister in China (Reinsch) to the Secretary of State

[Telegram—Extract]

PEKING, November 25, 1918, 6 p. m.

The President has issued a mandate ordering destruction of 1,200 chests of opium in Shanghai, the remainder of the stock purchased from opium combine. This wise decision deserves special recognition in view of the financial stringency of the Government. . . .

REINSCH

The Secretary of State to the Minister in China (Reinsch)

[Telegram]

WASHINGTON, November 30, 1918, 2 p. m.

Your November 25, 6 p. m. You will make appropriate expression to the Chinese Government of the Department's appreciation of their wise decision to destroy the opium stocks at Shanghai.

LANSING

**ATTITUDE OF THE UNITED STATES TOWARD POLITICAL
RELATIONSHIPS IN THE FAR EAST**

File No. 793.94/665

The Minister in China (Reinsch) to the Secretary of State

No. 1797

PEKING, December 15, 1917.

SIR: As the Department has not issued any special instructions to this Legation concerning the special motives for and the scope of the exchange of notes signed between the Secretary of State and the Special Japanese Ambassador on November 2, 1917,¹ I have the honor to state it is my understanding that the policy of the American Government, as expressed in your telegram of July 10, 6 p. m., 1917,² to the Embassy at Tokyo, remains unchanged. Should this not be the case, and should the policy of the American Government have been modified in any particular requiring special attention to

¹ *Foreign Relations, 1917.* p. 264.

² *Ibid.*, p. 262.

be paid by the Legation to any new relationship or phase in Far Eastern international affairs, I have the honor to request your instructions or expression of opinion.

I have [etc.]

PAUL S. REINSCH

The Secretary of State to the Minister in China (Reinsch)

No. 747

WASHINGTON, January 29, 1918.

SIR: The Department acknowledges the receipt of your despatch No. 1797 of December 15, 1917, in which you inquire whether the Far Eastern policies of the American Government have been modified in any particular since the Department's telegram of July 10, 1917, 6 p. m., to the Embassy at Tokyo, defining these policies.

In reply I have to state that there has been no change in the attitude of the American Government towards political relationships in the Far East since the telegram above mentioned was sent. The so-called Lansing-Ishii agreement relating to the Far East is intended to define more clearly the attitude of the American and Japanese Governments towards the Republic of China and to remove the suspicions and distrust engendered by evil influences which might have ultimately brought about misunderstandings between the United States and Japan if no steps had been taken to counteract their efforts.

I am [etc.]

ROBERT LANSING

**INSTITUTION OF JAPANESE CIVIL ADMINISTRATION IN THE
LEASED TERRITORY OF KIAOCHOW**

File No. 862a.01/2

The Consul at Tsingtao (Peck) to the Secretary of State

No. 155

Tsingtao, October 5, 1917.

SIR: Referring to my despatch No. 143, of July 14, 1917,¹ I have the honor to report that the civil administration for the Leased Territory of Kiaochow forecasted therein was substituted for the military administration on October 1, 1917, in conformity with Imperial ordinance No. 175, sanctioned by the Emperor of Japan on September 29, 1917.

The civil administration is established as a department of the headquarters of the Japanese force of occupation and supreme control in the occupied territory is vested, as formerly, in the general in command. Department chiefs and staffs are appointed to attend to every section of civil administrative routine. The Consulate has been unable as yet to prepare translations of the Imperial ordinance and subsequent regulations, but they will be submitted to the Department in due course. I have the honor to enclose herewith a brief biographical account of the principal administration officials.¹

¹ Not printed.

The significance of this change appears to be correctly and concisely summed up in the following sentences taken from the translation of a leader in the *Seito Shimpō*, the local Japanese organ, of September 24, 1917:

Looked at from a general point of view one fact is most obvious, viz., that the policy of our Government with respect to Tsingtao and Shantung Province has changed its nature of a temporary military occupation and has advanced one step toward a permanent peace basis.

One feature of the new administration seems to be the indication it affords that the Japanese Government considers that there is no more possibility of further war operations in this part of the country, and that they are consequently treating the war-time situation in reality as a peace situation, from a logical standpoint, and that they are therefore adopting a new policy of stimulation by replacing the military administration with a civil organization, thus making it possible to inaugurate future enterprises and plans that can be carried on permanently with continuity of purpose and undisturbed powers, both during and after the war.

I shall have the honor to treat further of the new organization in its relation to what must be recognized as the combined political and economic Japanese expansion in Shantung Province when the translations referred to above have been completed.

Copies of this despatch have been sent to the American Embassy at Tokyo, the American Legation at Peking, and the American Consulate at Chefoo.

I have [etc.]

WILLYS R. PECK

File No. 862a.01/3

The Consul at Tsingtao (Peck) to the Secretary of State

No. 169

TSINGTAO, November 30, 1917.

SIR: Referring to my despatch No. 155, of October 5, 1917, regarding the creation on October 1, 1917, of a department of civil administration in the headquarters of the Japanese military force in occupation of the Leased Territory of Kiaochow, I have the honor to state that this action at once aroused great opposition on the part of the Chinese in the Province of Shantung and elsewhere. I learn from the press that the Chinese Government in October presented a formal protest against not only the civil administration itself, but also against the stationing of troops and the extension of Japanese administrative functions outside the Leased Territory.

The Chinese plainly fear that the comparatively trivial military operations against the Germans are to be made the basis of Japanese domination of Shantung and they fear and are bitterly opposing every manifestation of what they feel are hostile and sinister usurpations of their fundamental rights.

The Japanese, on the other hand, starting with the assumption that the Shantung Railway, as well as the Leased Territory, are conquered areas, assert that it is both their right and their duty to provide for the peace and prosperity of this region, and that the new department of civil administration and its branches outside the Leased Territory have been created with only this laudable object in view.

This office is of the opinion that Japanese expansion in Shantung will not be seriously obstructed by local opposition. I have the honor to enclose herewith a memorandum treating of the circumstances attending the creation of the department of civil administration and conditions in the following two months.¹ The subject matter of this memorandum trenches in some degree on the district of the American Consul at Chefoo whose reports it is designed, to that extent, simply to supplement.

A copy of this despatch with its enclosure has been sent to the American Minister at Peking.

I have [etc.]

WILLYS R. PECK

[Enclosure 1]

REGULATIONS OF THE CIVIL ADMINISTRATION DEPARTMENT OF THE TSINGTAO ARMY HEADQUARTERS

(Imperial Ordinance No. 175. Signed by the Premier and the Minister of War and sanctioned by the Emperor of Japan on September 29, 1917, to be effective on the date of promulgation.)

Promulgated October 1, 1917.

ARTICLE 1

The civil administration department is established as a part of the army headquarters of the Tsingtao garrison.

ARTICLE 2

The civil administration department shall have executive control of all administrative and judicial functions except military.

The railway department is established to control the Shantung Railway, the mines attached thereto, the wharves, and all the business connected therewith.

The communications department is established to control the means of communication and the electric works.

These departments shall be under the control of the civil administration department.

The organization of the different sections in the civil administration department shall be determined by the commanding general of the Tsingtao garrison.

ARTICLE 3

Offices of the civil administration shall be established to carry on the administrative duties. The location, names, districts of the former shall be determined by the commanding general.

ARTICLE 4

The following officers shall be appointed in the civil administration department:

The chief civil administrator: chokunin rank.

The chief of the railway department: chokunin rank.

The chief of the communications department: sonin rank.

Administrative officials: 13 sonin rank (one may be of chokunin rank).

Engineers: 12 sonin rank.

Railway management officials and engineers: 26 sonin rank.

Communications management officials and engineers: 9 sonin rank.

Medical officers: 15 sonin rank.

Pharmacy officers: 2 sonin rank.

¹ The memorandum itself is not printed, although certain of its enclosures follow.

Interpreters: 3 sonin rank.

Subordinate officers:

Engineers	}	99 hannin rank.
Pharmacists		

Interpreters

Railway subordinate officers:

Engineers	}	350 hannin rank.
Interpreters		

Communications subordinate officers:

Engineers	}	68 hannin rank.
Interpreters		

ARTICLE 5

The chief civil administrator shall control all civil executive functions under the orders of the commanding general.

ARTICLE 6

The chief of the railway department shall conduct all the business of the railway under the direction and control of the chief civil administrator.

ARTICLE 7

The chief of the communications department shall conduct all the business connected with communications under the direction and control of the chief civil administrator.

ARTICLE 8

Administrative officials shall conduct the business of their departments under the direction of their respective superiors.

ARTICLE 9

An administrative official shall be appointed to be chief of the central administration and to conduct all administrative business under the direction and control of the chief civil administrator.

ARTICLE 10

When the chief of the central administration is obliged to be absent from his duty the post shall be filled temporarily by an officer appointed by the chief civil administrator.

The chief of the central administration office may appoint a junior officer to act as his representative temporarily to transact a part of the administrative business.

ARTICLE 11

The engineers, railway engineers, and communication engineers shall attend to engineering work under the direction of their official superiors.

ARTICLE 12

The medical officials shall attend to medical work under the direction of their senior officer.

ARTICLE 13

The pharmacy officials shall attend to pharmacy work under the direction of their senior officer.

ARTICLE 14

The interpreters shall do interpreting under the instruction of their senior officer.

ARTICLE 15

The subordinate officers, engineers, pharmacists, interpreters (hannin rank) shall undertake general affairs, engineering work, medical work, pharmacy work, and interpreting under the direction of their respective official superiors.

ARTICLE 16

Administrative and judicial police functions shall be performed by the *gendarmerie* in accordance with the regulations determined by the commanding general.

The *gendarmerie* in their performance of official administrative and judicial police duties shall be controlled by the chief civil administrator and instructed by the chief of the central civil administration office.

ARTICLE 17

The judicial affairs of the civil administration department shall be executed by the military judges and clerks.

These regulations shall be in force from the date of their publication.

All the higher and subordinate officials and engineers and interpreters who are engaged at the military administration, wharf office, and post office and who have not received any notification shall be appointed to the same posts with the same salary under the civil administration.

[Enclosure 2]

DEPARTMENT OF CIVIL ADMINISTRATION

Military Ordinance No. 19

Regulations for the apportionment of duties in the department of civil administration in the Tsingtao Army Headquarters are sanctioned as follows:

October 1, 1917.

FUSATARO HONGO,
Commander in Chief of the Tsingtao garrison

ARTICLE 1

The secretary's office and the following four bureaus shall be established in the department of civil administration, and bureau chiefs shall be appointed in the secretary's office and in the bureaus:

Bureau of general affairs
Bureau of police
Bureau of finance
Bureau of civil engineering

ARTICLE 2

The chiefs of the bureaus and the chief of the secretary's office shall be appointed from among the higher officials of the department of civil administration. They shall have charge of their respective departments, supervising the staffs of the bureaus and of the secretary's office, respectively, under the direction of the chief of the department of civil administration.

ARTICLE 3

The secretary's office shall have charge of the following business:

1. Important, confidential matters;
2. Personnel, i. e., the appointment and resignation of those who are treated as officials, or engaged for special purposes, or employees;
3. Charge of the official seals of the army headquarters, of the commander in chief of the Tsingtao garrison, the department of civil administration and of the chief of that department;
4. Conferring of ranks, decorations, and rewards;
5. Pensions, compassionate allowances to surviving families, and other allowances;
6. Ceremonies and rituals;
7. Maintaining order in the office and premises;
8. Night duty.

ARTICLE 4

Sections shall be established in each bureau of the department of civil administration, which shall have the following functions:

BUREAU OF GENERAL AFFAIRS

1. Section of correspondence:

- (a) Dispatch and receipt of correspondence, copying, and printing;
- (b) Compilation of official gazette, orders, and regulations;
- (c) Reports and statistics;
- (d) Translation and interpretation;
- (e) Compilation of correspondence and records, custody of the same and of books and maps.

2. Section of general affairs:

- (a) Affairs of the local administrations;
- (b) Foreign affairs;
- (c) Legal affairs;
- (d) Registration of family rolls;
- (e) Interpretation of orders and regulations;
- (f) Relief and charity;
- (g) Government hospitals;
- (h) Investigation of old customs and old regulations;
- (i) All matters not assigned to other bureaus and sections.

3. Section of education:

- (a) Matters connected with education, the sciences, and arts;
- (b) Schools, kindergartens, and libraries;
- (c) Temples and religious matters;
- (d) Registration for military service.

4. Section of industries:

- (a) Trade and manufacturing;
- (b) Marine produce;
- (c) Salt business;
- (d) Agriculture;
- (e) Domestic animals;
- (f) Factories;
- (g) Market and industrial guilds;
- (h) Measures and scales;
- (i) Commercial museums and markets;
- (j) Experimental farms.

BUREAU OF POLICE

1. Section of police:

- (a) Administrative policing matters;
- (b) Judicial policing matters;
- (c) Prisons and jails;
- (d) Training native police assistants.

2. Section of sanitation:

- (a) Medical affairs;
- (b) Medicine;
- (c) Quarantine and public health;
- (d) Animal diseases;
- (e) Private hospitals.

BUREAU OF FINANCE

1. Section of taxation:

- (a) Taxes and other revenues;
- (b) Monopolies;
- (c) Local currency;
- (d) Banks and money circulation.

2. Section of the treasury:

- (a) Budget of revenue and expenditure and their settlement;
- (b) Cash accounts exclusive of the revenue and expenditures;
- (c) Control of government property;
- (d) Investigation of registered real property;
- (e) Investigation of real property having a bearing on international relations;
- (f) Charge of foreigners' private property left behind;
- (g) Cash office.

3. Section of accounts:

- (a) Orders for payments;
- (b) Supervision of cash accounts;
- (c) Charge of receipts and disbursements of properties and equipment;
- (d) Matters connected with temporary employees.

BUREAU OF CIVIL ENGINEERING

1. Section of lands:

- (a) Plotting of towns and streets;
- (b) Listing of lands and houses;
- (c) Reclamation of land and use thereof;
- (d) Investigations of rivers and other streams;
- (e) Utilization of land;
- (f) Parks.

2. Section of civil engineering:

- (a) Planning, construction, and supervision of roads, rivers, streams, harbors, water utilization, sand banks, waterworks, and drainage;
- (b) Investigation of civil engineering works in general;
- (c) Watering streets and discharging of drainage;
- (d) Surveying and plotting of land.

3. Section of building and repairing:

- (a) Specifications of buildings, etc., and their construction and supervision;
- (b) Building and repairing of office buildings and residential quarters of officers.

ARTICLE 5

The experimental farm, forestry office, and slaughterhouse shall be established under the bureau of general affairs, with duties as follows:

1. The experimental farm shall have charge of experiments in agriculture;
2. The forestry office shall have charge of the maintenance and encouragement of forestry;
3. The slaughterhouse shall have charge of slaughtering and breeding of domestic animals.

ARTICLE 6

The harbor office shall be established under the bureau of police, and shall have the following duties:

1. Marking sea courses;
2. Marine policing;
3. Harbor quarantine;
4. Dredging of harbors;
5. Fixing buoys;
6. Other matters connected with harbor activities.

ARTICLE 7

The electric light works shall be established under the bureau of finance and shall have the duty of supplying electric current for light and power.

ARTICLE 8

The Tsingtao military hospital, the Tsingtao hospital, the railway hospital and the Tsingtao meteorological station shall be established under the department of civil administration. Their organization and the appointment of their officers shall be determined separately.

SUPPLEMENTARY RULES

This ordinance shall be effective from the date of promulgation.

[Enclosure 3]

MILITARY NOTIFICATION NO. 93

The names, localities and districts under the jurisdictions of the civil administrations of the Tsingtao garrison have been decided on as follows:

October 11, 1917.

FUSATARO HONGO
Commander in Chief of Tsingtao Garrison

Name: Tsingtao civil administration.

Locality: Tsingtao.

Districts: Tsingtao city and the region south of the line connecting Koshan, Shuichingkou, Tashan, Kaotzu, Shuanglenkou, Fushanhou, southern point of Shantungtou; Kiaochow Bay including Yintao, Huangtao and Shilingshan and the leased districts on the other side opposite Tsingtao.

Name: Litsun civil administration.

Locality: Litsun.

Districts: The districts north of the line connecting Koshan, Shuichingkou, Tashan, Kaotzu, Shuanglenkou, Fushanhou, southern point of Shantungtou; districts south of the boundary of the Leased Territory.

Name: Fangtze civil administration.

Locality: Fangtze.

Districts: Along the railway line between the boundary of the Leased Territory and Tsinan as well as along the railway line between Poshan and Changtien.

[Enclosure 4]

MILITARY ORDINANCE NO. 21

October 1, 1917

FUSATARO HONGO

Commander in Chief of the Tsingtao Garrison

Regulations of apportionment of business in the local civil administration offices:

ARTICLE 1. Bureaus of general affairs, police, and finance shall be established in the local civil administration offices.

ART. 2. The bureau of general affairs shall have charge of the following business:

1. Personnel and correspondence;
2. Reports and statistics;
3. Local affairs;
4. Buildings and constructions;
5. Matters not connected with other bureaus.

ART. 3. The bureau of police shall have charge of the following business:

1. Policing;
2. Sanitation affairs;
3. Family registration;
4. Animal diseases.

ART. 4. The bureau of finance shall have charge of the following business:

1. Taxes and revenues;
2. Cash accounts;
3. Supplying materials.

ART. 5. The chiefs of the civil administration offices may determine the business procedures of their offices with the sanction of the commander in chief of the Tsingtao garrison.

File No. 862a.01/7

The Secretary of State to the Ambassador in Japan (Morris)

[Telegram]

WASHINGTON, December 28, 1917, 6 p. m.

The American Minister at Peking on November 20 mailed to the Department copies of protests¹ made by the provincial assemblies of Shantung and Chihli against the establishment by Japan of civil government at Tsingtao and at places in Shantung which are outside the Leased Territory of Kiaochow. The Vice Minister of For-

¹ Not printed.

ign Affairs informed the Legation that the measure had been proposed and was under discussion. Minister Reinsch adds that he has reliable information of the establishment already of such Japanese authorities. In view of the declaration made to this Government in the note of Viscount Ishii on November 2 of Japan's intentions to respect China's sovereignty and independence the Department is loath to believe that such aggression upon China's sovereignty has taken place. Please ascertain and telegraph the facts.

LANSING

File No. 862a.01/6

The Ambassador in Japan (Morris) to the Secretary of State

[Telegram]

TOKYO, January 20, 1918, 8 p. m.

Your telegram December 28, 6 p. m. The regulations were forwarded in the Embassy's 854, October 4.¹

Vice Minister for Foreign Affairs stated to the Counselor yesterday that the effect of this action is to replace military control by civil administration under the jurisdiction of Ministry of War of the German concessions now actually under Japanese military occupation, namely Kiaochow Leased Territory and the (?) Li hinterland and the right of way and appurtenant properties of the Shantung Railway. He further stated that misapprehension had arisen through the term for "civil administration" which in Japanese implies a form of government over an area under military occupation but which in Chinese characters and in English rendering seems to imply domestic administration as applied to integral portion of national territory.

This telegram is being repeated Peking.

MORRIS

EXCHANGE OF NOTES AND CONCLUSION OF AGREEMENTS BETWEEN THE GOVERNMENTS OF CHINA AND JAPAN RELATING TO MILITARY COOPERATION

File No. 793.94/704

The Minister in China (Reinsch) to the Secretary of State

[Extract]

No. 2092

PEKING, June 6, 1918.

SIR: In continuation of my despatches Nos. 2062 and 2063 of May 23,¹ I now have the honor to forward for your information the official text of the notes exchanged in Tokyo on March 25, 1918, between the Minister for Foreign Affairs and the Chinese Minister,

¹ Not printed.

relating to military cooperation. The text transmitted is as officially given out by the Foreign Office in Peking.² . . .

I have [etc.]

PAUL S. REINSCH

[Enclosure 1]

Exchange of Notes Between the Chinese Minister in Japan (Chang Tsung-hsiang) and the Japanese Minister for Foreign Affairs (Motono), March 25, 1918

1. The Government of China and the Government of Japan, seeing that the actual force of the enemy has been daily extended into the Russian territory and consequently the general peace and tranquillity in the extreme Orient is in danger of being threatened, have to consider in common as early as possible the measures which should be taken to cope with the situation and to fulfil the duties of participation in the present war by the two countries.

2. The means and conditions of cooperation of the army and the navy of China and Japan compatible with this common military defence against the enemy for the realization of what may be decided upon by mutual agreement between both Governments in accordance with the preceding article, will be arranged by the military and naval authorities of both countries, who will from time to time consult each other carefully and freely upon all questions of mutual interest, and upon the approval of the Governments of the two countries will be carried out into action according to the demands of the circumstances.

Viscount Motono to Minister Chang Tsung-hsiang, March 25, 1918

MONSIEUR LE MINISTRE: With reference to the notes exchanged on March 25 instant between the Governments of China and of Japan on the subject of their joint defensive movements against the enemy, I have the honour to propose on behalf of my Government that the period within which the said notes are to remain in force will be determined by competent military and naval authorities of the two powers. At the same time, the Imperial Government are happy to declare that the Japanese troops staying within the Chinese territory for the purpose of such defensive movements against the enemy will be completely withdrawn from such territory upon the termination of the war.

I avail [etc.]

Minister Chang Tsung-hsiang to Viscount Motono, March 25, 1918

MONSIEUR LE MINISTRE: With reference to the notes exchanged on March 25 instant between the Governments of Japan and of China on the subject of their joint defensive movements against the enemy, I have the honour to acknowledge the receipt of your excellency's communication under to-day's date, proposing on behalf of your Government that the period within which the said notes are to remain in force will be determined by the competent military and naval authorities of the two powers. I am happy to state in reply that the foregoing proposal is accepted by my Government. I am further gratified to take note of the declaration embodied in your communication under acknowledgment, that the Japanese troops staying within the Chinese territory for the purpose of the defensive movements against the enemy will be completely withdrawn from such territory upon the termination of the war.

In communicating the above to your excellency under instructions of my Government, I avail [etc.]

² Copies of notes exchanged were also left at the Department by the Japanese Ambassador August 16, 1918 (File No. 793.94/709).

[Enclosure 2]

Military Agreement Between China and Japan

1. China and Japan, realizing the fact that the gradual extension of enemy influence towards the East may jeopardize the peace of the two countries, consider it their mutual duty, as participants in the war, to take concerted action against the common enemy.

2. As regards military cooperation each country shall pay due respect to the prestige and interests of the other country, and both parties shall be considered to be on an equal footing.

3. When the time comes to take action in accordance with this agreement the two countries shall instruct their military and civil officials and people to adopt a friendly attitude towards those of the other country in the military areas. The Chinese officials shall do their best to aid the Japanese troops in the said areas so that no obstacles shall arise to impede their movements, and the Japanese troops shall respect the sovereignty of China, and shall not be allowed to act in a manner contrary to the local customs and cause inconvenience to the people.

4. The Japanese troops in Chinese territory shall be withdrawn as soon as military operations cease.

5. Whenever troops have to be dispatched outside Chinese territory, the two countries shall dispatch them jointly whenever necessary.

6. The military areas and other matters relating to the military operations shall be decided by the military authorities of the two countries whenever necessary, in accordance with the military strength of each country.

7. In order to facilitate matters, in the course of the military cooperation the military authorities of the two countries shall observe the arrangements:

- (a) In regard to the making of all arrangements for carrying on military operations, both countries shall appoint deputies who shall arrange all matters regarding cooperation.
- (b) In order to secure rapid transportation by land or water and rapid communication, both sides shall cooperate to this end.
- (c) When occasion arises the two commanders in chief shall arrange all necessary military constructions such as military railways, telegraph and telephone lines. These shall all be removed at the conclusion of the military operations.
- (d) Regarding the necessary military supplies and materials required for taking concerted action against the enemy the two countries shall supply each other to such an extent as not to affect the supplying of ordinary demands.
- (e) The two countries shall assist each other in carrying out sanitary measures for the troops in the military areas.
- (f) With regard to the question of military experts for direct military operations, should the necessity arise for mutual assistance, if one country requests the assistance of such experts the other shall supply it.
- (g) In the areas in which military operations are taking place intelligence agencies may be established, and the two countries shall exchange important military maps and military reports. The intelligence agencies of the two countries shall exchange information and render mutual assistance.
- (h) All secret passwords shall be agreed upon mutually.

The questions as to which of the above arrangements shall be considered first, and which shall be first entered upon shall be mutually arranged in a separate agreement, before the actual commencement of hostilities.

8. When military transportation necessitates the use of the Chinese Eastern Railway, the provisions in the original treaty regarding the management and protection of the said railway shall be respected. The methods of transportation shall be decided upon at the time.

9. Regarding the enforcement of the details in this agreement, it shall be decided upon by delegates appointed by the military authorities of the two countries.

10. This agreement and the supplementary articles therein shall not be published by the two Governments, but shall be considered as military secrets.

11. This agreement shall be signed and sealed by the military delegates of the two countries and recognized by the two Governments before it becomes operative. The time for commencing actual military operations shall be decided by the highest military organs of the two countries. This agreement and all the details arising from this agreement shall become null and void as soon as the military operations of China and Japan against the enemy countries of Germany and Austria come to an end.

12. Two copies of this agreement shall be written in the Chinese language, and two corresponding copies in the Japanese language, and each party shall keep one copy of the agreement in each language.

[Enclosure 3—Translation¹]

Naval Agreement Between China and Japan, Signed May 19, 1918

1. (Same as Article 1 of military agreement.)

2. (Same as Article 2 of military agreement.)

3. When the time comes to take action in accordance with this agreement the two countries shall instruct their naval officers and all officials and people to adopt a friendly attitude toward those of the other country in the military areas, and mutually assist each other with a view to overcoming the enemy.

4. A separate agreement shall be drawn up regarding the field of activity and the duties of the participants when the time comes for taking action against the enemy.

5. When the time comes for action the naval authorities of China and Japan shall cooperate with a view to taking efficient measures as follows:

(a) (Same as 7a of the military agreement.)

(b) (Same as 7b of the military agreement.)

(c) In all matters relating to shipbuilding and repairs and naval equipment and supplies, both countries shall mutually assist each according to its power. This also applies to necessary military articles.

(d) (Same as section f of Article 7 of military agreement.)

(e) (Same as section g of Article 7 of military agreement. Substitute "naval" for "military" wherever used.)

(f) (Same as section h of Article 7 of military agreement.)

6. (Same as Article 9 of military agreement, except that "naval" should be substituted for "military" wherever used.)

7. (Same as Article 10, with "naval" substituted for "military".)

8. (Same as Article 11, with "naval" substituted for "military".)

9. (Same as Article 12.)

Seventh year of the Chinese Republic, fifth month, 19th day; seventh year of the Japanese Ta Cheng, fifth month, 19th day.

[Here follow signatures.]

EXPLANATORY NOTES REGARDING THE NAVAL AGREEMENT FOR MUTUAL ACTION AGAINST THE ENEMY

I

The navies of the two countries of China and Japan, looking toward the accomplishment of their mutual efforts in the war, in order mutually to carry out their purposes as outlined in Article 1, are agreed to render each other mutual assistance in the hope that these military efforts may be fully accomplished.

II

Article 5 of the agreement is explained as follows:

The term "deputies" used in clause (a) of Article 5 of the naval agreement is defined as naval attachés of each Legation, and naval officers stationed in other places, and others to be mutually appointed in case of necessity.

¹ Translated from the Chinese.

In clause (c) of Article 5 the term "necessary supplies" shall be defined as "metallic articles". "Necessary military articles" shall be defined as "combustibles, provisions, ammunition, such as are required in military operations." They shall be supplied by each country according to its power.

With reference to clause (e) of Article 5 charts are to be supplied upon the request of either country.

In a place within which military operations are taking place, should it be found necessary by both sides to make surveys and soundings of any bays, such surveys and soundings shall be done by the naval authorities of the country in which the bays are situated.

[Signatures same as on naval agreement.]

COLOMBIA

MESSAGE OF PRESIDENT JOSÉ VICENTE CONCHA TO THE NATIONAL CONGRESS

FBI No. 821.032/22

The Chargé in Colombia (Belden) to the Secretary of State
[Extracts]

No. 633

BOGOTÁ, June 20, 1918.

SIR: I have the honor to inform the Department that the extraordinary session of the Colombian Congress called for the 20th of this month was opened to-day and to transmit herewith three copies of the address made by the President of the Republic.¹

As was reported in my cablegram of May 27 last, Congress has been called in special session for the purpose of discussing financial conditions in view of the acute economic crisis which the Government has been suffering and which has been reported to the Department on several occasions. . . .

In his message to Congress the President refers to the treaty of April 6, 1914, pending the ratification of the Senate of the United States in the following terms:

In the report to Congress of the Minister for Foreign Affairs of last year, as in previous years, an account was given of the steps taken by the Colombian Government to obtain the approbation of that pact (the treaty) which, having been proposed by the Government of the United States and on the basis presented by that Government, it was expected would have been approved without delay.

Perhaps because these reports are not sufficiently known, at times it is given to understand that the attitude of the Government of Colombia or its representatives may have had an influence on the paralyzation of that matter. If any data be lacking for the forming of a just judgment in this regard the respective commissions of the chambers can study the correspondence of the Legation in Washington, as the instructions received by it clearly show what the Government has done, within legal and decorous bounds, to the end of terminating an affair of such consequence.

For the public authorities of Colombia the named convention is a law and, consequently, the attitude respecting it which the Executive power has observed is none other than the same respect which it guards in relation to all laws. Nothing which tended to weaken it or which implied ignorance of the will of the Legislature could the Government have proposed or accepted without assuming for itself the faculties of another power, and without failing in one of its first duties.

In relation to Colombia's attitude toward the present World War the President urges a strict neutrality and refers to Colombia's weakness as shown by her inability to make her voice heard during 15 years in "one of the most indisputable demands of justice among those registered in history."

¹ Not printed.

Speaking of the financial condition of the Government and relative to a foreign loan the message says:

With regard to the arranging of a loan abroad respecting which some insinuations have been received, besides the general obstacles known in order to bring it about, which have already been seen in the attempts in that regard made by the municipality of Bogotá and by the Compañía del Ferrocarril del Pacífico (Pacific Railroad Company), the Government has believed, as it has already publicly manifested, that it is its duty to abstain from that class of loans which might involve the danger of bringing the Republic to the state in which other Spanish American countries find themselves, whose said situation is a living example for those statesmen who see sound conservation of national sovereignty, security and dignity as the supreme necessity and as the most imperative of their duties and who have not forgotten what are the consequences of resolving fiscal difficulties with transactions which open the road to irreparable losses. . . .

I have [etc.]

PERRY BELDEN

COSTA RICA

POLITICAL AFFAIRS

Continuance of the Tinoco Government; Counter-Revolutionary Attempts to Oust Tinoco; Attitude of the United States¹

File No. 818.00/286

The Minister in Panama (Price) to the Secretary of State

[Telegram]

PANAMA, December 31, 1917, 4 p. m.

Your December 29, 6 p.² m. complied with. Volio seemed much discouraged. He stated that Tinoco would never yield to any moral pressure but only to physical compulsion and would completely ruin Costa Rica rather than retire voluntarily; that there seems to be nothing to be done except either to select an agreeable place to locate until it should be safe to return to Costa Rica or go to Washington and take up matters direct; that he would return Wednesday after considering the matter further; that they did not expect the Government of the United States to give any active encouragement but would be satisfied with its keeping hands off. To my inquiry as to his plans, in such event he said that he would proceed to Nicaragua and invade Costa Rica as previously stated, but he admitted that he had been assured of permission to do this by Nicaragua only on condition that the United States made no objection. He stated that they decided to initiate their movements from the outside because they were convinced that it would occasion much less bloodshed.

PRICE

File No. 818.00/289

The Minister in Panama (Price) to the Secretary of State

[Telegram]

PANAMA, January 3, 1918, 3 p. m.

Supplementing my December 31, 4 p. m. Volio states that it is now their intention to proceed to Nicaragua on the Pacific Mail steamer *Peru* next Monday or Tuesday. He has stated to the British Minister that they expected to lease launch for the trip. He states to me that the movement of Fernandez Guell³ was several months ago and that while friends of Isobar Volio persuaded Fernandez Guell of the impracticability of a movement supported by Germans, he had no other connection with him. Please instruct as to whether to let these parties leave for Nicaragua even if unarmed.

¹ Continued from *Foreign Relations*, 1917, pp. 301-349.

² *Op. cit.*, p. 349; also quoted in the Department's telegram of January 4, 1918, *post*, p. 230.

³ A member of the Costa Rican Congress.

Emilio Clare, chief of Panaman postal service, whose brother is the editor of the Tinoco newspaper organ in San José, is attempting to find out whether Volio is receiving encouragement from the Government of the United States, stating that he is making such claim in Costa Rica.

PRICE

File No. 818.00/279

The Secretary of State to the Chargé in Costa Rica (Johnson)

[Telegram]

WASHINGTON, January 4, 1918, 7 p. m.

On December 22 [29]¹ the Department cabled Am[erican] Legation, Panama, to the following effect:

Instruct censor to withhold transmission Volio's cables. You may inform Volio that the Government of United States will not countenance armed activities such as he contemplates, inasmuch as this Government feels that only by moral force can a constitutional and duly legalized Government be set up in Costa Rica.

You may inform Government of Panama that Government of United States cannot countenance any armed activities against Government of Nicaragua or the people of Costa Rica and wishes to emphasize the responsibility which, of course, the Government of Panama recognizes rests upon that Government to prevent armed forces from leaving territory of Panama for the purpose of operating in either of the neighboring Republics. Please communicate contents of this telegram to United States military authorities, and request their cooperation in watching movements of Volio and his followers and in preventing them from undertaking armed expedition contemplated by them.

Department is in receipt of reports to the effect that Castro Quesada and his associates have affiliations with German interests.

Which Panama answered January first as follows:

British Minister tells me Volio told him to-day that he was discouraged and had about decided not to pursue his project; that, however, Rogelio Guell, formerly editor the *Imparcial*, San José, had made plans to begin a revolution backed by the Germans and German money at the time he left, but agreed to hold off for him to carry out his intention.

Keep Department fully informed of any revolutionary rumors, particularly as to the real leaders and their affiliations with German interests. Your December 22, 4 p. m.² Cables withheld by censor show Volio is in direct communication with Gonzalez and Castro Quesada in New York.

LANSING

File No. 818.00/289

The Secretary of State to the Minister in Panama (Price)

[Telegram]

WASHINGTON, January 5, 1918, 6 p. m.

Your January 3, 3 p. m. Considered advisable not to permit these men to proceed to Nicaragua.

LANSING

¹ *Foreign Relations*, 1917, p. 349.

² Not printed.

File No. 818.00/302

The Chargé in Costa Rica (Johnson) to the Secretary of State

[Telegram—Extract]

SAN JOSÉ, January 10, 1918, 10 a. m.

In further reference to your January 4, 7 p. m., last paragraph, and in explanation of the last part of my December 22, 4 p. m.¹ Volio assured me in the only interview I have had, which was just before leaving here, that movement projected is not for the purpose of restoring Gonzalez. He himself was in the cabinet of Gonzalez Vicquez and I assumed that any communication with Gonzalez Flores would be merely for the purpose of obtaining representation before the Department. It is most improbable that Tinoco will retire except by force, and no movement except conspiracy within Government can be undertaken except during present three months' dry season. Economic pressure alone will not cause retirement. Many political prisoners in jail and outrages frequently committed. Situation approaches that of Nicaragua under Zelaya. Fernandez Guell is in hiding because of inclusion in list mentioned in Legation telegram of November 12, 9 p. m.¹ and despatch No. 196, November 16,¹ which please see. . . .

JOHNSON

File No. 818.00/305

The Minister in Panama (Price) to the Secretary of State

[Telegram]

PANAMA, January 13, 1918, noon.

Your January 5, 6 p. m. Volio has attempted to lease launches to get away, but so far has been frustrated. He has now represented to me that he will remain here amenable to such indications as I may be willing to make and that he will do nothing contrary to the will of the United States. An American from San José, possible but likely self-appointed emissary of Tinoco, tells me that the latter said to him he would have war declared on Germany, Costa Rican waters placed at our disposal, and 10,000 troops furnished for the defense of the canal if given recognition. [He] expressed the opinion as personal, but suspected to have official coloring, that Tinoco could be induced to withdraw in favor of Esquivel of Supreme Court or Rafael Canas or one of others. Volio would be willing to accept either of the above named.

PRICE

File No. 818.00/304

The Chargé in Costa Rica (Johnson) to the Secretary of State

[Telegram]

SAN JOSÉ, January 13, 1918, 7 p. m.

Have learned on fair authority that Costa Rican ship *Izabel* now at San José, Guatemala, with supplies for the earthquake sufferers will be returned with munition sent by Cabrera to Tinoco.

JOHNSON

¹ Not printed.

File No. 818.00/308

The Chargé in Guatemala (Thurston) to the Secretary of State

[Telegram]

GUATEMALA, January 17, 1918, 2 a. m.

I am informed that Ricardo Tinoco who brought relief supplies to Guatemala has now returned to Costa Rica on the steamer *Izabel* with a cargo of ammunition. A hasty investigation last night failed to confirm this.

THURSTON

File No. 818.00/320

The Chargé in Costa Rica (Johnson) to the Secretary of State

[Telegram]

SAN JOSÉ, February 3, 1918, 2 p. m.

Arrests of civilians continue. Tinoco has been warned by Chamorro of danger to be expected by way of Rio Frio and has dispatched more troops to Limon. Tinoco much alarmed; expecting early outbreak of movement referred to in my January 25, 9 a. m.¹

JOHNSON

File No. 818.00/321

The Chargé in Costa Rica (Johnson) to the Secretary of State

[Telegram]

SAN JOSÉ, February 7, 1918, 1 p. m.

Am informed by one of the spokesmen for movement referred to in my telegram of January 25, 9 a. m.¹ that it will begin early next week, that Turrichester [Turrialba] will be headquarters, that they possess few resources but are going to make the attempt. Please see also my telegram of December 31, 11 a. m.¹ Am skeptical of success. Reign of terror for Costa Ricans expected. Arrests continuing. Consul has received two letters warning that he will be assassinated in order to bring about intervention.

JOHNSON

File No. 818.00/326

The Chargé in Costa Rica (Johnson) to the Secretary of State

[Telegram]

SAN JOSÉ, February 15, 1918, noon.

Energetic measures of Joaquin Tinoco in the way of arrests resulting in confessions are revealing to him widespread nature of Volio revolutionary plans. Twenty rural guard were discovered to have been bought. They have been punished. It is said that half of police are also bought. Arturo Volio arrested yesterday; many others implicated are also in prison. These severe blows to movement may break it up before it gets under way. Tinoco extremely active in house searching and arrests during last three days.

¹ Not printed.

Salvador Calderon Ramirez, Nicaraguan, has been here from Panama attempting to persuade Tinoco to resign in favor of Francisco Aguilar Barquero, but without success. He has returned to Panama. Ex-President Duran has likewise attempted this, telling Tinoco whole country against him. Action dictated by arrest of his son-in-law. Calderon also brought to Caders discouraging news of inability of Volio to do anything in Panama although he had promise of help from Panama officials.

JOHNSON

File No. 818.00/410

Report from the Navy Department (Office of Naval Intelligence) to the Secretary of State

WASHINGTON, February 20, 1918.

FINANCIAL AND POLITICAL CONDITIONS IN COSTA RICA

This office has to-day received the following report:

In making any report on the abnormal political and financial situation prevailing in Costa Rica ever since Federico Tinoco established the present *de facto* Government by overthrowing the constitutional Government of Alfredo Gonzalez, on the 27th of January of last year, a brief summary of events seems to be indispensable.

It may be remembered that Federico Tinoco, then acting as Minister of War of the Gonzalez Government, taking as an excuse the alleged reelection pretensions of the then President, rose in arms against the Government and proclaimed himself military head of the country, solemnly promising the Costa Rican people to deliver the presidency of the Republic to the man whom they should freely and spontaneously designate at elections to be held on a future date. This solemn promise was made in a proclamation issued and signed by Tinoco on the date of the uprising, but few were the sensible Costa Ricans who ever gave faith to those words. One of the first steps taken by the Tinoco Government was to issue a decree summoning the people to hold elections for members to an assembly which was to frame out the new Constitution. The date fixed for these elections was the 2d of April. In the meantime Tinoco directed all his efforts towards gaining popularity among his countrymen, and in striving to do so, pretended to deal with members of the fallen Government with the utmost leniency. Alfredo Gonzalez, up to late, President of the Republic, and Manuel Castro Quesada, up to then envoy extraordinary and minister plenipotentiary to the United States, who, in order to avoid any possible violence, had taken refuge in the American Legation, were allowed to leave the country undisturbed; all members of the cabinet, authorities, and sympathizers of the old régime, were for the time allowed freely to go about their business, and citizens in general, for the first few days, were given absolute liberty.

This state of things did not last very long. Tinoco, convinced of his unpopularity and of the opposition his Government was to find on the part of the greater portion of the people who strongly disapproved and condemned his treacherous conduct towards the established Government, forbade the departure of the ex-President's brothers and family, who on their way to the States were detained at the station of Peralta; partisans of the old régime were closely watched and followed by Government spies and anyone expressing himself against Tinoco was arrested and taken to the damp and dirty dungeons of the penitentiary. Henceforth Tinoco proclaimed himself candidate to the presidency of the Republic for the next term of office and at the same time issued an absurd and ridiculous decree summoning the people to simultaneously hold elections of the same date, for President of the Republic and for members of the Assembly which was to frame out the new Constitution. This illegal and arbitrary act of the new Government only served the purpose of diminishing the

small prestige that the new régime might have among those who at the first outbreak had joined the revolt.

Tinoco dreaded a possible reaction and being short of arms and ammunition appealed for same to those Central American Governments which he knew might sympathize with the change effected in Costa Rica. Estrada Cabrera, who had always been on bad terms with the Gonzalez Government, was the first to respond to the call of Tinoco and a few days after sent Macario Sagastume in the capacity of confidential agent for the Government of Guatemala before the Government of Costa Rica. The exact mission that took Sagastume to Costa Rica still remains unknown, but it is a well-known fact among military men in that country that part of his mission was to offer Tinoco the support of Guatemala and also to deliver to him the arms and ammunition which Estrada Cabrera sent him on that occasion. As a proof of the foregoing it may be remarked that after the explosion which occurred in *cuartel principal* (main barracks), in San José de Costa Rica, on the 23d of October last, many were the cases of ammunition and arms taken out of the débris marked : *G. de G. (Gobierno de Guatemala)*, which had been stored without even changing the stencil marks on the cases.

Sagastume had been for many years a stubborn enemy of Estrada Cabrera and a political exile from Guatemala. During this period he was in constant and direct communication with the most prominent of Cabrera's enemies and lived in the various Central American Republics. During his stay in Nicaragua he became intimately acquainted with Colonel Higinio Aguilera, another of Cabrera's most stubborn and dreaded enemies, and who to-day, having taken an active part in the revolt against Gonzalez, is in charge of the *Cuartel de Artillería* (artillery barracks), in San José de Costa Rica, and is one of Tinoco's main supports. Sagastume, after years of opposition to Cabrera's Government, entered with him into friendly negotiations, returned to Guatemala, became one of his confidential men, and wrote a pamphlet addressed to all of Cabrera's enemies in which he acknowledged his past mistakes and urged everyone of them to return and cooperate in the Government of Guatemala.

Upon Sagastume's late arrival in Costa Rica he held long conferences with Colonel Aguilera (who in Costa Rica has been promoted to major general), and it seems that on that occasion Sagastume succeeded in patching up difficulties between Aguilera and Estrada Cabrera with the result that General Aguilera, commander of the artillery barracks in San José de Costa Rica and one of Tinoco's right-hand men, is at the same time the reconciled enemy of Estrada Cabrera and one of his most assiduous correspondents and admirers.

Upon Sagastume's departure from Costa Rica he was furnished a special train and a bodyguard which under command of Aguilera came to leave him as far as the port of Puntarenas.

Tinoco being assured of Cabrera's support and good will, openly enforced his candidacy to the presidency of the Republic, and in striving to demonstrate to the people his popularity ordered a grand demonstration of his partisans to be held in San José on the 19th of March. For this demonstration special trains were ordered and people were forcibly driven by the authorities from the most out of the way places. Anyone refusing to take part in this demonstration was to be considered as an enemy of Tinoco and was to be dealt with accordingly. People did not oppose and about twenty thousand men, in profound silence and as if attending a funeral procession, marched in protest through the streets of San José. The failure of this scheme to work and the attitude observed by everyone only served the purpose of irritating Tinoco and his people, who openly stated that they would allow no opposing candidate to share in the elections.

Election day was a dull one throughout the country and although the Government had automobiles, carriages, and all kinds of vehicles to convey the voters to the polls, everyone seemed to abstain from voting, excepting the authorities, Government employees, soldiers, and policemen.

Throughout the day these people voted and voted in the different districts with the result that by evening Tinoco and the men designated by him to constitute the Assembly, had been unanimously elected and had more votes than the total number of voters in Costa Rica.

The men chosen by Tinoco to form the National Assembly convoked to frame out the new Constitution were, in their majority, of no political or social significance, and amongst them several were boys who scarcely had age to hold a professional title,

The inaugural session of the Assembly was held on the first of May, and without the Constitution being promulgated Tinoco was inaugurated as President of the Republic. The Assembly then gave itself up to the task of studying the draft of the new Constitution which had been drawn up by all the living ex-Presidents, with the exception of Ricardo Jimenez, who roundly refused Tinoco to cooperate at all in his combinations. The Assembly introduced in the Constitution all the changes suggested by Tinoco, among them the most important one being the extension of the presidential term of office from four to six years. Tinoco pretended to refuse the extension of his term, but, being urged by his friends, gladly consented.

The Assembly, not satisfied with the various arbitrary measures adopted, finally ended by declaring that its members were to constitute the permanent Senate and Congress of the Republic and that their term of office was also to last six years. From the date of Tinoco's treacherous uprising, he started to float interior loans which were met with more or less reluctance by the banks and capitalists, who, however, in their endeavor to avoid trouble, finally furnished some money. In order to meet the vast expense brought about by the revolt, by the elections, and by the constant donations made to all of Tinoco's confidential men, the Government had no other recourse than to make use of the drafts which Gonzalez had accumulated for the settlement of the "revolving credit," that is to say, a credit which Gonzalez's Government had obtained in the States and which was destined to keep the rate of foreign exchange at a low figure.

When the date arrived for the settlement of this credit, the Government, in order to meet its obligations, seized the gold reserves of the International Bank and duly made the settlement, but this only caused the rate of exchange to rise from 250 to 325 per cent.

The results of the rise of exchange were soon felt with the scarcity throughout the country of the silver fractional currency which was shipped out of the country as fast as it could go. Merchants, banks, and other private enterprises, in order to have change for their pay rolls and other various transactions, soon started to pay a premium on silver, with the result that in a few days not a single silver coin circulated throughout Costa Rica. Business remained at a standstill. No small transactions could be effected. In every store and in every business place signs could be seen saying: "Bring change; if not, we can not sell you anything." The Government, in order to improve conditions, ordered the Bank of Costa Rica to change the one- and two-colon Government bills for silver, but this action did not improve things and soon it was realized that the whole stock of silver deposited in the bank, upon the issuance of those bills, would also leave the country. The Government then ordered the old Costa Rica to be put in operation, and obtained authorization from Congress to issue silver currency of 500 fine instead of 900, which was the standard of the Costa Rican silver coin. Every effort was made to purchase old silver, tableware, articles of silver, and foreign and domestic coins in order to keep the mint supplied with metal, but the scheme turned out to be a total failure. Not one would supply silver to the mint even if they had it.

In the meantime, to facilitate transactions most merchants issued paper coupons which they used in giving change to their customers. These coupons were of a limited and altogether voluntary circulation. Conditions did not improve, but on the contrary became more and more complicated; merchants of no financial responsibility or commercial standing took advantage and started to issue thousands and thousands of colones' worth of these coupons which were of doubtful redemption. The Government, foreseeing the results, issued a decree prohibiting such coupons to be issued and in turn authorized the municipalities and provincial governors to issue such coupons under the strict understanding that the amounts received in exchange should be deposited in some bank and kept ready for the redemption of the coupons in circulation. All the municipalities, excepting that of San José, promptly proceeded to issue coupons for the value of 5, 10, 25 and 50 cents, but to defray the alleged cost of printing charged an absurd discount of 10 per cent on all amounts changed. These coupons only circulated in the municipal circumscription of the place at which they were issued, and therefore people going from one place to another had on many occasions to sacrifice their coupons in changing them back to bank notes or to what may be termed national currency. It was not long before members of the municipal councils and authori-

ties started to engage in this exchange business; all the old and torn coupons received at the municipal offices in payment for taxes, fines, etc., were continued to be changed over to the public with the customary discount of 10 per cent for printing expenses, and in this way a coupon that had gone through the municipal dependencies ten times in succession had amply paid its face value, and its original reserve could therefore be withdrawn without any risk from the fund deposited in the bank. Another scheme worked on the public was to issue an order to change all coupons before a certain date, claiming that those in circulation were torn and dirty. All coupons would be accordingly changed for bank notes; the few left in circulation would be gathered up through stores and large business enterprises. In a few days the same municipality would order a new issue of coupons and upon giving the same, would again charge 10 per cent discount for the cost of printing.

This state of affairs has lasted for many months and these same schemes have been worked on the people with the approval and consent of the Tinoco Government.

As a result of the redemption of the one- and two-colon bills, by the Bank of Costa Rica, and as the result of public disconfidence which caused the people to hide these bills which were known to be redeemable for silver, the one- and two-colon bills ran scarce and the Government had no other course left than to issue a large amount of these bills without any silver backing at all. This procedure caused bills to be graded by the public in two distinct denominations: the old bill, that is to say, the one that has stock in the Bank of Costa Rica, and the new one, issued by Tinoco, which has none. The former reads: "The National Treasury will pay bearer so much in 25 or 50 cent silver pieces" and the latter reads: "The National Treasury will pay bearer in coined silver (of no denomination) so much." This explanation seems necessary in order to explain some further schemes worked on the Costa Rican people by the whole Tinoco outfit.

The issue by the Tinoco Government of this paper money with no silver backing at all only resulted in the rise of the rate of foreign exchange which now reached over 400 per cent.

In the meantime, all of Tinoco's friends, and amongst them . . . were personally and through recognized agents actively buying up the "old bills" and secretly changing them for silver from the stock held by the Bank of Costa Rica. This silver in its turn was shipped out of the country and drafts brought back in exchange which at the rate of 400 per cent left them quite a considerable margin of profit.

Tinoco, taking as an excuse the scarcity of small currency and the scarcity of silver in the country to fill the demands of the mint, obtained an authorization from Congress to coin copper currency which was to be put in circulation at the earliest opportunity. Arrangements were made, and the mint started to coin copper at its full capacity. Notice was served to the public that the new coins would be put in circulation, but warned everyone that the mint would only give out small currency in exchange for "old bills," that is to say, that the Government would only change copper for bills with a silver backing and not in exchange for Tinoco's paper money. This scheme of course further enabled Tinoco's friends to continue to withdraw the stock of silver in the Bank of Costa Rica.

The output of the mint is very limited, but sufficient to somewhat satisfy the greed of Tinoco's most intimate and reliable friends.

The circulation of copper currency has not alleviated the situation in the least and only caused foreign exchange to jump to 500 per cent.

In the midst of all these difficulties and complications, brought about by the most outrageous misgovernment, public employees and authorities have remained unpaid or have been only partly paid, while accounts against the administration have been absolutely ignored. In recognition for all these obligations the Government only issues a *giro* which is something on the lines of an I. O. U. and these *giros* can only be sold at a discount ranging from 40 to 60 per cent. The principal people engaged also in the purchase of these *giros* or Government obligations, are, strange to say, . . . and Tinoco's most intimate friends.

Another concern actively engaged in the purchase of these Government obligations is *La Sociedad Editora Nacional*, a printing and newspaper enterprise whose shares are chiefly owned by the Minister of Finance and his brother-in-law, who is the general manager of the concern.

Some time ago, upon the occasion of the funeral of Mr. José Joaquin Rodriguez, ex-President of the Republic, and to which the military band was to attend, the musicians decided to strike and refused to go, claiming that they had remained unpaid for three months, that they had wives and children to support and that they could not work for nothing. The military authorities forcibly made them attend, and upon their return from the cemetery, 26 of the leading musicians were thrown into the dirty, damp dungeons of the penitentiary, while Julio Cantillano, head flutist, and two others were unmercifully placed in the stocks (*ceop*) over night. This arbitrary procedure on the part of the Tinoco people gave rise to a general protest which forced Congress to take the matter up, and after mature deliberation and constant urging, the men were released under the condition that they should continue at their posts. Some of them accepted while others refused and finally all were let out, only to be constantly molested and watched by Government spies.

In view of the attitude adopted on this occasion by the members of the military band and of the sympathy shown them by most of the public employees of the Tinoco Government, the cabinet members at a special meeting issued a circular addressed to all, stating that in view of circumstances any employee of the Government not satisfied with their salaries or with the way in which the Government paid, was welcome to file his resignation.

In view of the terrible and critical financial situation prevailing in Costa Rica, no one could retire, but the result is that these unpaid employees do not punctually or duly attend to their duties, with considerable detriment to the transaction of public or judicial affairs.

Ever since Tinoco rose in arms against the constitutional Government of Gonzalez, anyone could easily foresee that his policy was going to be one of imposition and violence. One of the main factors in his success in proclaiming himself in the *cuartel principal*, adjacent to the penitentiary, were the convicts and criminals who at that moment were supplied with arms, and it was expected that, in recognition for their valuable services at that critical moment, they would have to be let out. So it happened, but Tinoco was not satisfied at that, and many of these disreputable characters were given commissions in the Army, while others form the mass of the secret service or spy system which for the first time has been established in Costa Rica.

While all this was happening, inside the frontiers of that country, Tinoco's foreign affairs seemed to get more and more complicated. Although he had strained all efforts to obtain recognition from the United States Government and had sent Ricardo Fernandez Guardia as his confidential agent to Washington, it seemed as if all his hopes had to be given up and privately he started making insinuations as to severing diplomatic relations with the German Government, hoping, as on several occasions he manifested to his friends that "this might bring about the solution of the problem." Just about this time Tinoco issued a proclamation in which he stated that he had reliable information to the effect that within the territory of the Republic several parties were committing acts in violation of Costa Rica's neutrality with respect to the European war and which highly endangered the peace, integrity, and autonomy of the country. The following day Juan Kumpel, a German subject, a friend of the Gonzalez Government and a stubborn enemy of Tinoco, was thrown into jail accused of being a German spy. Immediately two or three wireless installations, which students had set up in their homes for experimental work, were dismantled; enemies of the Government were accused of being in correspondence and acting in connection with German capital to start a revolution in the country so as to overthrow Tinoco, who henceforth has appeared and pretended to be one of the Germans' worst enemies, and lastly a fantastic newspaper story was made up about a supposed German firm dealing in timber which had a base on the Atlantic coast, where gasoline, material, and ammunition were being stored in preparation to a supposed attack on the Panama Canal.

The details of all this story were transmitted in a lengthy cable to the Associated Press by Modesto Martinez, its representative in Costa Rica, and one of Tinoco's most intimate friends. After this, nothing has been heard about the supposed German revolution, the base or the confiscation of any war material. This story seeming not to cause the desired effect, Tinoco further went on to request Congress to invest him with extraordinary powers and authorize him to adopt such measures in relation to the European conflict as

might be in accordance with the general feeling of the Costa Rican people. The result was the severing of diplomatic relations with Germany on the 21st of September last. Tinoco and his friends upon doing this, thought that they had reached the goal of recognition from the Government of the United States and the Allied nations, but time elapsed and brought upon them a sorrowful disappointment. The so much desired recognition has never come, and to-day Tinoco's Government, although apparently siding with the Allied nations, is at heart one of their deadliest enemies.

Whenever anyone protests against the illegal acts of the Government he is accused of being a German spy or of being connected in some way or another with the Germans and is immediately closely watched, thrown into jail, or punished in some other way.

In the meantime, the real and genuine German spies and all those sympathizing with the German cause go about unmolested and have every protection, even if with the utmost publicity they do their work.

As a proof of the foregoing, reference may be made to a daily newspaper called *La Nueva Era*, which was openly pro-German and whose editor, Luis Cartin, was thrown into jail and the newspaper suppressed not until the month of December last, after some strong articles against the Tinoco administration had been published. The excuse, of course, given was that the newspaper was pro-German, although it had been working in favor of the German cause ever since the war broke out.

O. W. FOWLER

File No. 818.00/328

The Chargé in Costa Rica (Johnson) to the Secretary of State

[Telegram]

PORT LIMON, February 22, 1918, noon.

Ex-President Cleto Gonzalez, Carlos Duren (Duran) and many other prominent citizens arrested; Turbit [?] Iglesias to be arrested. Reliably and confidentially informed that movement previously advised will break out to-day. Possibility of San José being cut off. Rumors already current that outbreak has occurred in Cartago and Alajuela; that Rio Grande on Pacific railway taken where General Aguilero, Guatemalan, in charge of one of the barracks here, reported killed. Renew recommendation my telegram December 31, 11 a. m.¹

JOHNSON

File No. 818.00/329

The Chargé in Costa Rica (Johnson) to the Secretary of State

[Telegram]

PORT LIMON, February 23, 1918, 10 p. m.

Ex-Presidents taken by officers to presidential mansion, there requested to sign manifesto to the people declaring their support of Tinoco. They refused, advising him that the country being against him almost unanimously, he should follow dictates of his conscience. Iglesias went into hiding, so did not participate, nor did Ricardo Jimenez of Cartago. Fernandez Guell and 25 well-armed followers stopped train from Puntarenas at Rio Grande, took off General Aguilero and brother of Tinoco and allowed train to proceed. They

¹ Not printed.

then headed for Puntarenas on freight train, but apparently have not taken Puntarenas. San José, Limon quiet to-day. Many troop movements yesterday to Alajuela and other places. Guell faction in movement appears to have anticipated others, giving Tinoco chance to arrest many more suspects in outlying provinces and San José.

JOHNSON

File No. 818.00/331

The Consul at Port Limon (McMillin) to the Secretary of State

[Telegram]

PORT LIMON, February 24, 1918, 2 p. m.

Costa Rican Government troops *en route* to Turrialba yesterday to meet revolutionary troops fired on passenger train bound from San José to Limon, killing three persons, mortally wounding another, slightly wounding several. American, M. B. Ryan, Milford, Connecticut, wounded eye. Communication Limon, Listav, San José, cut. Am requiring full explanation governor, Limon, action affray [?] troops; taking depositions important witnesses. Ryan able leave hospital for New York. As yet no fighting Limon. No communication by cable. Is not known how long can use wires without Government interference. Details in my despatch. (?) Gomez leading revolution requests boat protect American interests. I will not reply except say have communicated his letter Minister Johnson and to the Department of State.

McMILLIN

File No. 818.00/332

The Chargé in Costa Rica (Johnson) to the Secretary of State

[Telegram—Extract]

SAN JOSÉ, February 24, 1918, 8 p. m.

Serious incident occurred yesterday afternoon at La Pascua near Limon. Passenger train from San José was on siding and troop train from Limón on the main line abreast; troopers fired into passenger train supposedly under the impression that revolutionists were on board, wounding one American, two Jamaicans, two Costa Ricans, and killing one Jamaican and three Costa Ricans, one of whom was brother-in-law of Felipe Alvarado. Shooting done in broad daylight at a distance of four feet, commanding general apparently giving order. Details by mail. Please instruct.

Juan Gomez previously mentioned, started movement Turrialba yesterday with 60 men, taking possession of train from Cartago. . . .

JOHNSON

File No. 818.00/330

The Chargé in Costa Rica (Johnson) to the Secretary of State

[Telegram]

PORT LIMON, undated.

[Received February 24, 1918, 8.07 p. m.]

Other factions movement have cut railway Limon; communication difficult; none by cable. Movement growing.

JOHNSON

File No. 818.00/328

The Secretary of State to the Chargé in Costa Rica (Johnson)

[Telegram]

WASHINGTON, February 25, 1918, 4 p. m.

Your February 22, noon, from Port Limon just received. Keep Department closely informed in regard to situation.

Your December 31, 11 a. m. Navy Department will be prepared to dispatch United States vessels to Costa Rica for protection of American lives and property should Consul or Legation report necessity for such action.

LANSING

File No. 818.00/335

The Consul at Port Limon (McMillin) to the Secretary of State

[Telegram]

PORT LIMON, February 25, 1918, 4 p. m.

Further examination shows shooting on passenger train by Costa Rican Government troops absolutely without excuse. Governor Limon statement soldiers intoxicated is not confirmed by statements passengers. Approximately five hundred shots fired; presence [of] mind saved most passengers from death. Mr., Mrs. Younge and child and Mr. Grant on train, but escaped; *en route* for New York on steamer. Ryan confined hospital for week, possibly sight of wounded eye saved. All other casualties among native Costa Rica (?) Panama. Identification to be made and blame to be placed and perpetrators punished, says President, through Government Limon. Occurrence seems deliberate murder. American feeling bitter Limon. Treatment passengers by Gomez courteous. Consulate and Legation mail passed. United Fruit Company pay car captured with \$60,000, sent back to company with his compliments. Movement strong. Details despatch last night. Three bodies Government troops started different points to capture head of revolution, Gomez. Two bodies encountered each other and fought severe battle before mistake discovered. Third body presumably defeated by Gomez. Still quiet Limon. Notified Price, Panama.

McMILLIN

File No. 818.00/336

The Chargé in Costa Rica (Johnson) to the Secretary of State

[Telegram—Extract]

SAN JOSÉ, February 26, 1918, 11 a. m.

Yesterday Gutierrez Navas, Nicaraguan member of Central American Court of Justice, called on me to say that he had cabled his Government that in measures to suppress present counter-revolution Doctor Irias was acting as closest military adviser of Tinoco that matter. Member of his kitchen cabinet is Colonel Santos head of naval guard, and the secretary of that organization is Umberto Barahona, all three implacable enemies of present régime in Nicaragua. That this action of Tinoco has now become serious menace to Nicaragua as they command considerable forces which they could throw at any time into Nicaragua.

This close relationship between the two first-named Nicaraguans and Tinoco has been several times referred to in despatches and considered as a serious menace to American lives as well, since Santos has several times threatened to kill all Americans. . . .

JOHNSON

File No. 818.00/338

The Chargé in Costa Rica (Johnson) to the Secretary of State

[Telegram—Extracts]

SAN JOSÉ, February 26, 1918, noon.

Your February 25, 4 p. m. received. Have you received my February 24, 8 p. m.? Wounded American, Ryan, doing well. Now appears that Colombian also killed. . . .

Backbone of movement seems to be broken; cable and rail communication last accounts restored; but movement may revive. Also urgently recommend that Volio and friends in Panama be allowed sufficient freedom to return to Costa Rica. Guell appears to be in flight. Am awaiting instructions regarding action to take on behalf of Ryan. Minor incidents I have taken up unofficially without instructions. Whole Costa Rican situation requires serious consideration. I have not perhaps emphasized sufficiently lawlessness of Tinoco régime. For the last two weeks, since official full investigation discovered some of revolutionary government plans, reign of terror has existed. Suspects in great numbers in every part of country have been thrown into jail and mildest punishment has been lashes on the back to extract confessions. Several of rural guard imprisoned have been tortured to death; one while undergoing torture called Tinoco a traitor and was instantly shot by Joaquin himself. Two Americans' houses have been entered without warrant and Carlos, being likewise an American citizen previously mentioned, kept in jail without warrant several hours until I had him released. Spanish colony have suffered particularly, as I have reported. . . . Incidents verified and circumstances too numerous to mention have been reported to me of the most barbaric and atrocious torture of political prisoners.

Sentiment is extremely strong for intervention among all classes of foreigners and natives who are praying for some form of aid from us. A remarkable change of sentiment has been effected since the anti-American demonstrations before Legation three years ago in regard to Nicaraguan treaty.

Very considerable demands backed by warship would be desirable. Costa Ricans, if the present movement unsuccessful, are helpless in the hands of despotic tyrants who are ruining the Costa Rican Government. Situation warrants effort on behalf of democracy against czarism in Costa Rica, more so in view of our fight for same principle in Europe. Many believe that if our troops landed here they would be welcomed.

JOHNSON

File No. 818.00/347

The Chargé in Costa Rica (Johnson) to the Secretary of State

[Telegram—Extract]

LIMON, February 27, 1918, noon.

Gomez and Mariano Guardia, Minister of Finance under Gonzalez, and 60 men forced to surrender at Turrialba by placing in front of Government lines two daughters of Guardia. This stratagem boasted of by Tinoco commander, a cousin. Movement practically over. Am encouraging ex-President Duran and members of Central American Court of Justice to urge strongly retirement of Tinoco. Attitude of latter is one of defiance of the United States. He has stated repeatedly that for the honor of the country he will not get out at the suggestion of foreign government, when real reason is simply desire for office and graft, and doubtful as ever that he will voluntarily resign. Treatment to be given rebels still in doubt. . . .

JOHNSON

File No. 818.00/340

The Minister in Panama (Price) to the Secretary of State

[Telegram]

PANAMA, February 27, 1918, 2 p. m.

Volio is begging earnestly to be permitted to leave in view of the outbreaks in Costa Rica, about which we get only limited and somewhat contradictory reports, indicating them to be sporadic but occurring in various sections. If permitted to go, he says he would still try to reach Nicaragua and invade the Guanacaste region of Costa Rica. Please instruct.

PRICE

File No. 818.00/335

The Secretary of State to the Consul at Port Limon (McMillin)

[Telegram]

WASHINGTON, February 28, 1918, 6 p. m.

Your cables February 24, 2 p. m. and February 25, 4 p. m. Keep Department fully advised by cable in regard to situation.

LANSING

File No. 818.00/343

The Consul at Port Limon (McMillin) to the Secretary of State

[Telegram]

PORT LIMON, March 1, 1918, 11 a. m.

Your cable February 28, 6 p. m. Revolution apparently over, failure due chiefly to fact Government had practically all ammunition and guns in the country. Responsibility for firing on passenger train being investigated according to the Governor Limon but believe nothing will really be done without demand of our Government.

McMILLIN

File No. 818.00/357

The Chargé in Costa Rica (Johnson) to the Secretary of State

[Extracts]

No. 237

SAN JOSÉ, March 1, 1918.

SIR: I have the honor to confirm briefly my cables in regard to the revolutionary movement that broke out on Friday, February 22, on the Pacific side and on Saturday, the 23d day of February, on the Atlantic side, and which has been up to now a complete failure from a military point of view. Juan Gomez and Mariano Guardia, the able ex-Minister of Finance under the Gonzalez Government, and the two most respectable active participants, were captured on the 6th at the estate of the first named, near Turrialba, after their failure to advance upon Cartago, and have been brought as prisoners, with their sixty odd followers to San José and confined in the penitentiary. The feeling of the American colony for Mariano Guardia is so high that if he is badly treated they will protest to a man. There is no announcement as yet of a general amnesty and release of the hundreds of political prisoners—on the contrary, the machinery of military law under which they were taken before and during the trouble seems to be continuing to operate and no leniency is yet indicated in the treatment of prisoners.

Rogelio Fernandez Guell on the Pacific and Manuel Chao on the Atlantic are still uncaught, and hope is still expressed that something may be expected from these two men. The latter is an experienced Mexican guerilla fighter, as he is the ex-Villista general, for some time military governor of the State of Chihuahua. It is rather significant that the expression on the faces of thousands of people of

all classes in San José denoted disappointment felt at the failure of the revolution. There can be nothing further from the truth or more dastardly than the attempt made to give the impression abroad and to the American Government that this movement was "pro-German". Besides the Tinocos, all their friends . . . have carried on that propaganda. Unfortunately it had one very serious result in being the probable cause for the detention and surveillance of the Volios in Panama. If I had but realized the influence of the interested reports that would go to Washington from Panama upon the arrival of the Volios there, I could perhaps have counteracted their effect in time. . . .

If one could but appreciate the unanimity of public sentiment against the Tinocos, the odium in which they are held, the blackness of their character and the prayers of the population for the success of the feeble attempt to oust them, it would be easy to appreciate that there was nothing pro-German about it. Even if Fernandez Guell is pro-German, as seems evident, I can not too often repeat that the Germans can not gain, but only lose from the ousting of Tinoco. When there is a recognized government here we can do something about interning or sending to Panama objectionable Germans, but this element is safe and secure under the present circumstances. If the Germans are stupid enough to support a movement to put out Tinoco, let us entice them into playing into our hands. But the mere statement of the proposition shows the utter folly of considering the Germans capable of opposing Tinoco for strictly German purposes having any connection with the World War or its consequences. . . .

In regard to the torturing of political prisoners in the jails and penitentiary, the stories have at last come back to Joaquin Tinoco and he gave out an interview in the *Información* of the 27th of February which is virtually a damning admission that tortures are perpetrated. He, of course, vehemently denies the truth of the stories, and then in his careless disregard of all lawful restraint goes on to say in effect:

I give warning to the public, however, that those who circulate such stories and calumnies I will persecute and punish with all necessary rigor, for the purpose of putting an end to this evil at the root.

The portion above is a close literal translation of his quoted interview.

I have been in daily communication by long distance telephone with Mr. McMillin, our consul in Limon, to whom I repeated the first two cables I attempted to send, and which he transmitted by wireless from Limon. Mr. Ryan, the American wounded in the Pascua incident, is progressing as well as can be expected. He came here on some errand of business that brought him in contact with Federico Tinoco, and the latter, presuming on this acquaintance, has sought by every means in his power to buy off any claim that Ryan may wish to file for the injury received. . . .

I have not, pending receipt of instructions from the Department, had any communication whatever with the authorities in regard to the incident. . . . The Tinocos are resorting and will continue to resort to every device of trickery, treachery, and deceit in order to place a different aspect from the true one, upon the incident; for

example, so far, public explanations have been given ranging from the ridiculous one that a band of rebels got the Government troops drunk, and that a rebel handed the commanding general a telegram saying that the train before their eyes was a rebel train filled with armed enemies, to the latest and more insidious excuse, that the noise of the release of an air-brake caused the troops to fire.

The testimony, however, is very clear, as will be seen from the reports of witnesses being prepared and sent by Consul McMillin, and there is no possible escape from the conclusion that the act was one of pure wantonness and murder, requiring at the least, in addition to compensation, the punishment of the commanding general. The crime of murder can of course only be urged by or through the British Government.

As the affidavits of the witnesses are being sent by the Consul at Limon, I shall not attempt to repeat the testimony. However, I enclose the statement of an Englishman¹ which brings out very well the atrociousness of the action of the Tinoco regular troops in the Pascua incident. An American, who subscribes to his statement, I met, personally, while in San José. He had an experience with the rebels on both the Pacific and Atlantic side and experienced as well the Pascua incident, receiving a bullet through his hat, so that a report from him upon his arrival in the United States should prove of value.

I have [etc.]

STEWART JOHNSON

File No. 818.00/356

The Consul at San José (Chase) to the Secretary of State

No. 245

SAN JOSÉ, March 2, 1918.

SIR: I have the honor to report as to the revolutionary movement in Costa Rica of the last few days that all information received was promptly transmitted to Mr. Stewart Johnson, our Chargé, so that, at this time, no attempt is made to give a detailed account.

The facts seem to warrant the statement that a reign of brutality and loot prevails in Costa Rica, possibly equal to that of Cuba before 1898; that men are put into soldiers' uniforms and armed who, for public security, should be in prison and, with the authority thus conferred, they commit grievous crimes against unoffending citizens. The rural guards are under the command of Col. Samuel Santos, a Nicaraguan follower of Doctor Irias, bitterly anti-American and pro-German, and he has recruited many Nicaraguans who have no interest in the welfare either of the citizens or of the country. They have committed excesses which should not be tolerated anywhere. They are a constant menace to all residents here. No case is reported of an officer receiving even a reprimand for his actions, however cruel, illegal, and unjust. The people are becoming fearful on account of these brutalities. It is not an exaggeration to say that 90 per cent of the natives who think would like a chance to express their desire for some form of intervention to stop this.

¹ Not printed.

The forces in control have practically all of the arms. If those opposed had had half the arms and munitions of men in charge of the Government forces, the matter would have been settled by the people before now.

Law-abiding citizens who have no other desire than to be free to attend to their daily work and to be allowed their customary freedom are taken to prison and held there without warrant and some sadly beaten. This was going on for some time before February 23. It still continues. The liberty of the citizen is being taken from him and he is helpless because he does not have the implements for successful resistance.

The story that this movement for redress of unbearable wrongs, temporarily suppressed, was a plot of our enemies—the Germans and their allies—does not seem to have any foundation in fact, even though men who desire to retain favor with those in control have given it publicity, and others through ignorance may have spread it. The movement came from an earnest desire of the people to free themselves from that which is becoming impossible for them and for their country. The Costa Ricans are generally a quiet, orderly people who would not meddle in such affairs were it not necessary for their own salvation. They need practical help or a repetition of the horrors of Europe may soon be noted here.

I have [etc.]

BENJAMIN F. CHASE

File No. 818.00/345

The Minister in Panama (Price) to the Secretary of State

[Telegram]

PANAMA, March 2, 1918, 3 p. m.

Referring to my February 27, 2 p. m. All of Volio's associates slipped away while our detective in charge had gone to Colon for a few hours. They are on way to David, Panama, where the Panamanian officials have agreed to attempt to have them detained until the Commanding General, Panama Canal Department, will send ship to David with Panamanian police and let them be arrested and returned here if you deem it best policy. Volio still here, claims that he cooperated in their getting away on account of heavy expense he was bearing for them, and frankly admits, too, that they have gone to be in closer touch with the present revolution and to join it at most propitious moment. Prompt instructions appreciated.

PRICE

The Acting Secretary of State to the Minister in Panama (Price)

[Telegram]

WASHINGTON, March 4, 1918, 3 p. m.

Department does not feel that Volio or his associates may properly be forbidden the right to leave the Republic of Panama, if they depart as individuals, and without those attributes which under American law would cause them to be regarded as an expedition

POLK

File No. 818.00/340

The Acting Secretary of State to the Minister in Panama (Price)

[Telegram]

WASHINGTON, March 4, 1918, 4 p. m.

Department's December 29, 6 p. m.¹. If Volio desires to leave Panama as a private citizen and not as leader of an armed expedition, Department cannot recommend that he be held.

POLK

File No. 818.00/353

The Chargé in Costa Rica (Johnson) to the Secretary of State

[Telegram]

SAN JOSÉ, March 7, 1918, 11 a. m

Extra session of Congress postponed until 18th owing to inability to count on quorum. Several members involved in recent revolution, others anxious to obstruct Tinoco. By the time mentioned it is supposed that enough alternates, elected last April, can be prevailed upon to attend. Some of lesser lights and peons have been released from prison, but court martial against large number of leaders still proceeding. Joaquin Tinoco informed me that it is their plan to obtain full payment of expenses revolution from rich men actively involved. Accordingly embargo has been placed on all property of long list of men. Complications may result from fact that much property had been transferred to foreigners, including Royal Bank of Canada. Movement was a complete failure. Only important leader not captured is Fernandez Guell, who is probably making for Panama Republic. It is of interest to note that in long lists of men whose property embargoed there is only one German name, that of Austrian family born here, intermarried with Costa Ricans. Among hundreds arrested there were only two or three Germans during entire period and now released.

JOHNSON

File No. 713.001/71

The Chargé in Costa Rica (Johnson) to the Secretary of State

[Telegram]

SAN JOSÉ, March 14, 1918, 10 a. m.

Central American Court of Justice had formal closing session at 3 p. m., 12th instant; archives and property turned over to the Costa Rican Government. Closing resolution included one to call upon Tinoco and amicably request full amnesty be given all political prisoners. Undoubtedly political move dictated by almost unanimous hostility of members towards him. Call made, but military process against prisoners continues and further arrests made.

JOHNSON

¹ Quoted in Department's telegram of January 4, 1918, *ante*, p. 230.

File No. 811.111/3588

The Chargé in Costa Rica (Johnson) to the Secretary of State

[Telegram]

SAN JOSÉ, March 15, 1918, 10 a. m.

Joaquin Tinoco has requested me to ask if there is any objection to his going early in April to France via the United States. He says that if there is no objection, he is going to join French Army at the front through the medium of Costa Rican Minister at Paris. Doubt sincerity of his intention to leave, but if he goes, retirement of Tinoco will be easier of accomplishment.

JOHNSON

File No. 818.00/369

The Chargé in Costa Rica (Johnson) to the Secretary of State

[Telegram]

SAN JOSÉ, March 20, 1918, 2 p. m.

Reliably informed that Fernandez Guell and all five companions killed by Tinoco forces near Panaman boundary. Common report is that they were murdered without a fight and with all [no?] casualties on Government side. Government has given out no information although killing occurred 16th. Congress likely to take some action on death of fellow member.

JOHNSON

File No. 818.00/370

The Chargé in Costa Rica (Johnson) to the Secretary of State

[Telegram]

SAN JOSÉ, March 23, 1918, 3 p. m.

One of Fernandez Guell party only dangerously wounded, brought to Puntarenas and Joaquin Tinoco informs me that his story corroborates Government claim of a fight. However, public will be skeptical and is indignant. Congress has passed resolution appointing joint investigation committee to go to Buenos Aires, place of the tragedy. Tinoco appeared before Congress in person yesterday and made a threatening speech creating bad impression. Requiem mass held at cathedral. Crowd of 3,000 addressed from steps and vigorously applauded speech calling Tinocos assassins. Tragedy occurred on 15th; Government learned of it 19th.

Postponed session of Congress opened 18th. Investigating committee has one courageous member but it is likely to be much hampered and intimidated.

JOHNSON

File No. 818.00/374

The Chargé in Costa Rica (Johnson) to the Secretary of State

[Telegram]

SAN JOSÉ, March 27, 1918, 2 p. m.

Executive decree of amnesty proclaimed to-day excepting military offenders, foreigners implicated—some Spaniards and Spanish Americans—those responsible for damage to the United Fruit Company Railway, and somewhat ambiguously, those who do not recognize their financial responsibility for damages caused. Ex-Minister of Finance, Mariano Guardia, released, but Gomez and others of property continued in prison. Decree amounts to little more than play for popularity, as reservations enable Tinoco to continue in prison those against whom his enmity is diverted.

JOHNSON

File No. 701.1811/48

The Costa Rican Minister (Quesada) to the Secretary of State

[Translation]

NEW YORK, March 28, 1918.

EXCELLENCY: Señor Don Rafael Oreamuno, Secretary of the Legation, being now out of the country, and I having also to make a trip, I beg your excellency to deign to consider as being in charge of the Legation Señor Don Francisco M. Montero, the Vice Consul of the Consulate General of Costa Rica in New York, whose office is at 2 Rector Street in this city, until Señor Don Juan Rafael Oreamuno returns; and immediately upon his return, I beg your excellency to be pleased to consider him as Chargé d'Affaires.

Before leaving, I wish to picture to your excellency the very sad condition in which my country finds itself under the shameful rule of the usurper, Tinoco, as this would be the best defense of the efforts put forth both by President Gonzalez and myself to prevent a recognition of that intolerable tyranny by this cultured and powerful Government.

A little more than a year has passed since the rule born of the treachery of the former Minister of War, aided and abetted by American capital, forced that rule upon Costa Rica, and that short space of time has sufficed to turn one of the most prosperous and better-governed countries of the continent into an unfortunate tribe subject to the unrestrained and conscienceless will of that despot, and deprived us of nearly every advantage offered by civilization.

For instance: In the matter of public charities, my country proudly stood comparatively at the head of the other Latin American Republics. We had an insane asylum which could still be compared with the best in this country, various hospitals which had little to envy from the most perfect institutions of that kind in any part of the world, homes for orphans, lying-in hospitals, etc. All these, on a small scale, have been well equipped and highly efficient.

Now, the greater part of those institutions have been closed and those which remain have been brought down to the lowest level. A

great many lunatics have been thrown out on the street with all the attendant danger and inconvenience to the community, and of the 600 beds that were at the hospital of San Juan de Dios, the best in the Republic, there are but 140 left, and those will be very soon removed.

An annex to that hospital for the care of tuberculosis has been closed and the local papers speak of the death of many of those patients on the public highway.

With public instruction the situation is no less deplorable. Of the 16 schools that were in the capital, 11 have been closed and 4,000 children in San José alone have been deprived of the benefits of teaching, and the same proportion prevails in the rest of the country.

All the other public services have had more or less the same fate. In the last 9 months the Government has not paid one cent of the interest on its internal debt nor for the rents of houses nor for the merchandise it buys in the interior. The revenue on spirits, which ranks second in the country, has been reduced to practically nothing, so as to enable his henchmen publicly to dispense illicitly distilled spirits.

The International Bank, a state bank founded by President Gonzalez on the basis of public credit, and which under his intelligent administration had hoarded in its vaults the sum of 800,000 colones in gold for the redemption of its notes, has been destroyed by Tinoco, who brought its metallic reserve to the trivial sum of 70,000 colones, as a result of the sacking, as it was called by the manager of the branch of the Royal Bank of Canada at San José, of that institution by the traitor.

The colon, our monetary unit, which was worth 40 cents in American gold when Tinoco broke into power, has fallen during his administration as low as 17 cents in spite of the fact that the increase of exports of the country amounted to a million, while the imports were half a million less during the first 10 months of the past year as compared with the same months of 1916.

In his eagerness to procure funds he has overburdened every industry with excessive taxes, which must necessarily destroy them as it has already destroyed many, and the funds so procured have not been used for the public good, but to raise troops, ten and twenty times larger than those which at other times were employed by the several governments for the maintenance of order. At the gambling tables where Tinoco spends his nights, on the keeping of a harem by his brother Joaquin, Minister of War, and in supporting in this country a few adulators who sing the praise of their masters, goes the weakened marrow of the nation, and yet there are American concerns which would defend this ignoble rule in the Department of State and at the same time endeavor to mislead public opinion through the press, a part of which is practically controlled for that purpose. In this field we are powerless, defenseless. In some newspaper or other there are seen, daily, items disparaging us, the enemies of Tinoco, calling us pro-Germans, anti-Americans, and whenever we try to protest against such odious slander, we find the doors of the editors closed. Many a time have we given to the newspapers articles and declarations demonstrating the iniquity of the charges made against us, but never have we succeeded in having them published. Ameri-

can companies owning interests in Costa Rica blocked our way and we had no recourse against it.

So intolerable has the situation in Costa Rica grown that about a month ago groups of citizens took up arms against the hateful rule. Desperation, which is always a poor adviser, drove them to suicide, for it amounts to nothing else to meet with a few shotguns and revolvers an enemy armed with modern rifles, machine guns, and ordnance. It was an easy task for Tinoco under those circumstances to suppress the movement and fill the jails with six or seven hundred political prisoners, among whom were three of the ministers of the Gonzalez administration and all of his brothers. Another of those ministers, Señor Acosta, whom I had the honor to present to your excellency in December, 1915, is a fugitive from the country, as is Señor Oreamuno, the magistrate representing Costa Rica in the Central American Court of Justice, and also many other persons of note. I must not forget that among the fugitives are two of the deputies of the making of Tinoco in the bogus elections he ordered after seizing the power, Messrs. Rogelio Fernandez Guell and Rafael Rodriguez, willing servants of the tyrant at the beginning but who soon came to turn against him as have all those who applauded the setting up of the hateful situation which is now debasing and denigrating Costa Rica.

Such is the disparagement into which the Tinoco Government has fallen that outside of his nearest relatives, it may be said that he has only foreigners in command of the troops. His military adviser, who holds his full confidence, is Dr. Julian Iriar, extremely well known in Nicaraguan politics, who has brought to him a legion of adventurers of all nationalities. The Minister of Hacienda, Licentiate Manuel Francisco Jiménez, who has certainly been the person who turned the situation to his own advantage with an effrontery that can only be compared with his unscrupulousness, has just withdrawn from the government on anything but friendly terms. Tired of being used as a tool to torture the citizens, Colonel Pinaud, one of the military chiefs who lent most effective aid to Tinoco in his treachery, tendered his resignation which was accepted, but he was immediately thrown into jail. Opinion has become so estranged from that misrule that I have reliable information to the effect that Señor Fernandez Guardia himself, who represented Tinoco's interests in Washington, is now as deeply displeased as anyone with the situation which he defended here.

Dr. Don José María Soto, for many years household physician of Tinoco and former president of the "27 of January" Club, an institution created by the usurper to arrange the details of his laughable election, is now at the Altamont Hotel, Baltimore, Maryland. I wish that the Secretary could have from Señor Soto's own lips a description of the situation that now prevails in Costa Rica.

The former presidents of the Republic who did so much to strengthen the traitor's power, would gladly now wash their huge mistakes in their own blood.

Finally, Mr. Secretary, the predictions which I ventured to make in the beginning to your excellency as to the condition in which Tinoco would put the country are literally coming true. Misery and

ruin could not be worse and the dissatisfaction and discord of all the social classes are growing daily greater.

Tinoco recently ordered the confiscation of all the property of 40 citizens, which will make even deeper the abyss of disrepute into which he has fallen. And so protests against such frightful tyranny do not come now only from us, the friends of the former order of things; the country is unanimously with us, and so we now find in jail by the side of the brothers of President Gonzalez a multitude of men who stood with the traitor in his criminal attempt.

Therefore, there can be no tranquillity in Costa Rica as long as Tinoco is not overthrown; revolution must break out again at any moment and with the scarcity of means at the disposal of the people there is ample reason to fear that the next movement will prove as fruitless as that which has just failed and only serve to lead the country into worse anarchy. What Costa Rica needs to defend her life and her rights is arms, and your excellency well knows that it is impossible for the manufacturers of this country to furnish them at this time.

As with respect to the press, here again Tinoco has equally the advantage of us: to him the Governments which recognize him, such as that of Guatemala, have not hesitated to furnish the war implements he has asked, and in these very United States one Francis J. A. Darr, of the firm of Savage, has given him formal promise to fill a large order for machine guns, which Tinoco personally gave him in January at San José. In the last fiasco the Government's soldiers murdered with impunity British subjects and seriously wounded an American citizen. These acts of vandalism which could not even be thought of in Costa Rica, the Athens of America, as the Honorable John Bassett Moore, calls it in his book, *Principles of American Diplomacy*, will surely be represented by the adventurers who stand with Tinoco as innocent if not commendable acts. These same men possibly would say that those Englishmen and that American were dangerous German agents to keep up the slander started by those miscreants in their endeavor to injure us, the enemies of Tinoco.

And now that I have touched upon this point, I must say to your excellency that in my country, as in all Latin American Republics, the great majority is intensely pro-Ally, and now in the presence of the noble attitude taken by President Wilson not to recognize the hateful Government presided over by Tinoco, it may be said that all of my fellow citizens are intensely pro-American. The Kaiser, who recognized Tinoco, has proved that he was in Costa Rica the same enemy of democracy and a partisan of tyranny as he is everywhere; and on the contrary, President Wilson in repudiating that hateful rule has given further conclusive proof of the sincerity of his devotion to the principles of justice and fraternity, whether Belgium, Serbia, or Costa Rica be concerned. And it being so, can it be conceived that we, the enemies of Tinoco, could sympathize with a tyrant who recognizes him and approves his acts and opposes the noble Chief Magistrate who has denied him his friendship? The charge is so ridiculous that it must truly provoke hilarity rather than indignation.

Before concluding, Mr. Secretary, I deem it proper to say to your excellency that President Gonzalez will stay a few months more in

this country, and that if by any chance your excellency should require any information from him, he may be called at No. 80 Front Street, in this city.

Begging your excellency to deign to forgive my taking up so much of your time with this long statement, I take pleasure [etc.].

MANUEL CASTRO QUESADA

File No. 818.00/380

The Chargé in Costa Rica (Johnson) to the Secretary of State

[Telegram]

SAN JOSÉ April 3, 1918, 8 p. m.

Joaquin Tinoco informs me Costa Rican Consul, Colon, wires that Padre Volio and one hundred men left Chiriquí to invade Costa Rica via Puntarenas or Liberia. Panama informed.

JOHNSON

File No. 818.00/382

The Chargé in Costa Rica (Johnson) to the Secretary of State

[Telegram]

SAN JOSÉ, April 4, 1918, 1 p. m.

Arrests in great numbers again being made. Nearly 1,000 men forcibly recruited to meet attack anticipated. In view of unconfirmed news Tinoco received, reported in my April 3, 8 p. m., troop trains sent to Limon and Puntarenas. Town in state of considerable excitement. School closed to house recruits.

I have learned confidentially that Gonzalo Fernandez, a brother-in-law of Tinoco, is leaving for Panama within a day or two with a proposition from Tinoco to retire in favor of some one of his choosing, first, however, making an agreement with the United States in regard to the Canal and Cocos Island, money to be paid to his successor. I have been approached very informally as well, but have given encouragement only to proposition relating to retirement.

JOHNSON

File No. 818.00/381

The Minister in Panama (Price) to the Secretary of State

[Telegram]

PANAMA, April 4, 1918, 3 p. m.

Our detective who saw the men and arms reports that on Saturday 10 men only, Costa Ricans, led by Robles, and 2 others of Volio's followers were on the way to Costa Rica from Chiriquí Province; that they had 21 rifles with 200 to 700 rounds ammunition for each; that they then, and later, Jorge (or George) Volio, who was still in David, stated that their plan is to enter Puntarenas Province, Costa Rica, surreptitiously and separately, and not as armed expedition, to recruit followers there, capture El Pozo, a port on Golfo

Dulce, and entrench themselves until sufficient force is organized to march on capital. Detective just from Puntarenas Province says strong sentiment there against Tinoco aggravated by cruelty of the assassination of Guell and his band, and he believes their plan feasible. He does not think Germans involved with Guell. Three of Volio band were still in David. Vaglio has gone by ship to Costa Rica, remainder with Alfredo here.

Supplementing my telegram of April 3, 10 a. m.¹ Costa Rican President has cabled General Santiago de La Guardia here to make public protest against invasion, and to Colombo to file a formal protest with me as representative of the country capable of keeping order in Panama and to remind me of his pro-Ally sentiments and that Costa Rican people oblige him to fight German intrigue. Please instruct also regarding this protest.

PRICE

File No. 818.00/384

The Chargé in Costa Rica (Johnson) to the Secretary of State
[Telegram]

SAN JOSÉ, April 5, 1918, 10 a. m.

Constitutional guaranties suspended by Congress at dictation of Executive for 30 days, in view of "threatened foreign invasion." Have received no news from American Legation Panama as to the basis for reported movement from there.

JOHNSON

File No. 818.00/388

The Minister in Panama (Price) to the Secretary of State
[Telegram]

PANAMA, April 7, 1918, 9 a. m.

Eleven of revolutionists mentioned in my telegram of April 4, 3 p. m., arrested by Panaman authorities before reaching Costa Rica and together with their arms are being held. Tinoco cables Clare that he has dispatched 1,000 men and requests particularly names of those in Panama who aided them. Information received that former Minister Castro Quesada sailed from New York for Panama or Nassau March 29 to take part revolutionary activities.

PRICE

File No. 818.00/387

The Chargé in Costa Rica (Johnson) to the Secretary of State
[Telegram]

SAN JOSÉ, April 7, 1918, 1 p. m.

Volio expedition has arrived on Costa Rican soil near Panaman border.

JOHNSON

¹ Not printed.

File No. 818.00/397

The Chargé in Costa Rica (Johnson) to the Secretary of State
[Telegram]

SAN JOSÉ, April 11, 1918, 2 p. m.

Fairly well confirmed that Volio expedition on Costa Rican soil near Buenos Aires; equipment or means not known. Tinoco Government believes collusion exists with authorities at Panama and secretly blames Panaman Government. Preparations and war expenditures now being made far in excess of those during February revolution; 3,000 under arms. The only Costa Ricans in expedition supposed to be 12 of those who escaped from the country in December with Alfredo Volio. American Legation Panama has given me no news whatsoever and no other trustworthy accounts of information. Tinocos preparing to resist at Limón, Puntarenas, Guanacaste, and towards Panaman border.

JOHNSON

File No. 818.00/398

The Minister in Panama (Price) to the Secretary of State
[Telegram]

PANAMA, April 12, 1918, 2 p. m.

Supplementing my telegram of April 7, 9 a. m. Revolutionists arrived here last night with the exception of George Volio, who has evaded authorities. They are to have freedom of the city but not to leave without consent of Panamanian authorities. Castro Quesada now on the way to Almirante, Republic of Panama, on visit to mother. Claims that he will return here next week and later go to Nicaragua. Tinoco has cabled Clare \$500 for trip to Costa Rica Sunday, authorizing him to let Monge accompany him. He has cabled Perez at David one thousand and instructs Clare to thank Panaman President and Minister of Foreign Affairs for detaining revolutionists.

Alfredo Volio has let me know that later he will ask whether Department has objection to an invasion of Costa Rica from Nicaragua.

PRICE

File No. 818.00/401

The Chargé in Costa Rica (Johnson) to the Secretary of State
[Telegram]

SAN JOSÉ, April 14, 1918, 3 p. m.

Dr. Gutierrez Navas leaves for Nicaragua 18th. I am informed that on the 13th after receipt of telegram *en clair* from the Nicaraguan Government instructing immediate investigation and report on the situation with regard to safety and enjoyment of rights by Nicaraguans under Tinoco régime in view of incident of Nicaraguan

boy seized by authorities in Puntarenas and severely flagellated before he was released. Telegram was condemnatory in its language and relied upon violation of the treaty rights and of clause against infliction of tortures or of punishments prior to convoying [conviction?] in Costa Rican Constitution itself.

Ex-President Rafael Iglesias called to-day and stated that confidentially he considered this incident over which Nicaragua justly is much concerned as affording opportunity needed at this psychological moment for pressure to be brought looking to retirement of Tinoco; that Nicaragua should be counselled to press broad Central American aspect of Tinoco misgovernment and entrance upon office based upon Central American peace treaty, and that the United States could at the opportune moment as the universally recognized "guarantor" of these treaties, especially since the expiration of Central American Court of Justice, make further representations looking to his retirement in the interest of Central American peace.

Nicaragua through this incident is now added to the list of those countries which are concerned over ability of the present régime here to either guarantee or answer for wanton official acts of violence to their nationals, this list including the United States, Panama, and Great Britain, by reason of Pascubo [Pascua?] incident on February 23.

JOHNSON

File No. 811.111/4598

The Chargé in Costa Rica (Johnson) to the Secretary of State

[Telegram]

SAN JOSÉ, April 19, 1918, 1 a. m.

Joaquin Tinoco has requested me for an answer to my telegram of March 15, 10 a. m. Now believe that his desire to go to France dictated by intense weariness of constant struggle to maintain himself and brother in power; also believe that attitude of Joaquin is that of Federico who can not give expression to it, even confidentially, as his over [own?] subordinates would vanish at once. Tinocos still have hopes of recognition based now wholly upon aid given them by us by reason of vigilance exercised over Volios in Panama. They attach importance to this and to the expiration on May 8 of constitutional term of Alfredo Gonzalez or his market [sic] Vice Presidents thinking that the United States is waiting for that day to extend recognition. A categorical reputation [repudiation?] of this belief conveyed by me under instructions from the Department might lead to definite suggestions from them of retirement. They would of course first insure themselves of sufficient Government funds to reside abroad.

Volio danger has vanished but large force conspicuously on war footing. Minor plots and conspiracies continuing.

JOHNSON

File No. 818.00/405

The Secretary of State to the Chargé in Costa Rica (Johnson)

[Telegram]

WASHINGTON, April 23, 1918, 5 p. m.

Your April 19, 1 a. m. You may hand the following statement to General Tinoco and use whatever means which are in your possession to have it become public:

The Department of State has received reports to the effect that those citizens of Costa Rica now exercising the functions of Government in Republic of Costa Rica have been led to believe by those persons who are acting as their agents that the Government of the United States was considering granting recognition to them as constituting the Government of Costa Rica.

In order to correct any such impression which is absolutely erroneous, the Government of the United States desires to state clearly and emphatically that it has not altered the attitude which it has assumed in regard to the granting of recognition of the above-mentioned citizens of Costa Rica and which was conveyed to them in February 1917, and further that this attitude will not be altered in the future.

LANSING

The Secretary of State to the Minister in Panama¹ (Price)

[Telegram]

WASHINGTON, April 25, 1918, 4 p. m.

For your information and whatever public use you may deem desirable, following telegram was sent American Legation, San José:

[Here follows text of telegram of April 23, printed above.]

LANSING

File No. 818.00/411

The Chargé in Costa Rica (Johnson) to the Secretary of State

[Telegram—Extracts]

SAN JOSÉ, April 26, 1918, 9 a. m.

Quoted portion of your April 23, 5 p. m., handed to Tinoco yesterday at unofficial interview at Executive Mansion. Joaquin only other person present. Had intimate talk for two hours. Both men are sick of positions but afraid to let go for fear of assassination. Federico impressed me as irrational and both are acutely alarmed over new enemies, results of deaths in revolutions and Guell killing. . . .

I suggested advisability of his giving public consent to publication in Government newspaper organ. Both men immediately became greatly excited and said it will result in assassination of one

¹ The same, on the same date, to the American Legations in Guatemala and Nicaragua.

or both of them within 24 hours, and that if I published it in some other way he would immediately summon consuls of countries that had recognized him and inform them of it, and would hold the United States directly responsible for their deaths. In [which] case he probably meant I personally would be held responsible. I said I did not wish to have to publish, for example, in Panama and add an explanation that publication not permitted here. I changed subject to their possible retirement with the idea of making that an alternative to publication. They did not take offense but saw principally same difficulty of their assassination which would follow within two or three days. I assured them that all plans I had heard discussed involving their retirement included their safe conduct out of the country. They also insisted they were poor men. I said I knew they had some very good and wealthy friends. (The fact is same plans just referred to of Costa Ricans involve enabling Tinocos to fill their purses. It is possible they have not done this, having in mind possible opportunities after hoped-for recognition.) I said in regard to publication that I would ask new instructions.

JOHNSON

File No. 811.111/3588

The Secretary of State to the Chargé in Costa Rica (Johnson)

[Telegram]

WASHINGTON, April 26, 1918, noon.

Your March 15, 10 a. m. and April 19, 1 a. m. The United States Government has no objection to Joaquin Tinoco's going to France via the United States.

LANSING

File No. 818.00/414

The Chargé in Costa Rica (Johnson) to the Secretary of State

[Telegram]

SAN JOSÉ, April 28, 1918, 11 a. m.

Sent for Joaquin yesterday and communicated to him substance of your April 26, 10 a. m. [noon]. Suggested to him that his brother decide very quickly in regard to retirement, as I had little idea that Department would alter my information regarding publication of statement. He begged me to defer publication as it would spoil his plan of trying to persuade his brother to leave the country; that he, himself, was convinced that they should go but it would be a matter of saving pride of his brother to persuade him. I asked if he could bring it about within a few days. He replied, within a week, but do not believe they would actually go until after May 8. His idea is for his brother and himself to resign, turning over presidency for remaining 5 years of term under new Constitution to one of 3 or 4 men whom he would not yet name to me but who would give him a military mission in France and brother a consulship and retain some of their friends in office here. This of course would not be admissible as final solution since country would feel cheated by the

United States if elections were not soon held. We could avoid binding ourselves in advance, however, and then it might be possible to secure from person left in charge by Tinoco early elections. Popular demand will be heavy for these elections to be supervised by the United States. Am watching carefully to prevent efforts of Joaquin being mere fight for time. Congress meets in regular sessions May 1.

JOHNSON

File No. 818.00/411

The Secretary of State to the Chargé in Costa Rica (Johnson)

[Telegram]

WASHINGTON, April 30, 1918, 4 p. m.

Your April 26, 9 a. m. Department approves your course of action and desires that you be guided by your best judgment.

For your information—the quoted portion of Department's April 23, 5 p. m., was sent by cable to Legations at Panama, Guatemala, and Nicaragua, with the statement that it was for their information and whatever public use they might deem desirable.

LANSING

File No. 818.00/420

The Chargé in Costa Rica (Johnson) to the Secretary of State

[Telegram—Extract]

SAN JOSÉ, May 3, 1918, 9 a. m.

Upon receipt of your April 30, 4 p. m., on May 1 had another conversation with Joaquin Tinoco who wanted more time than at previous interview. I told him I would wait until 4th for further news of progress in his efforts with brother. Later that afternoon passengers from Panama informed him that Department's declaration had been published there. These papers or clippings of course circulated here yesterday, . . . I therefore yesterday sent note to Joaquin saying declaration must be published in to-day's *La Información* accompanied by statement that I had handed it to Tinoco on 25th last, or that otherwise I would find another means to publish it. Tinoco yielded and seeking to get what little advantage he could from giving it out himself, published to-day a manifesto reciting that on the 25th I handed him declaration, and giving its text followed by recital that he had not asked for recognition since withdrawal from Washington of Ricardo Fernandez Guardia in July 1917, nor had he ever publicly, orally, or in writing informed people of Costa Rica that he expected recognition [by] them, reciting the worn out proofs of his popularity, legality, and virtues, and ending with the statement that he would continue as in the past to endeavor to direct the destinies of the country along lines of self-sufficiency and freedom from economic and financial dependence upon other countries. Copies by mail.

JOHNSON

File No. 818.00/423

The Chargé in Costa Rica (Johnson) to the Secretary of State

[Telegram]

SAN JOSÉ, May 8, 1918, 9 a. m.

It appears that from the first, publication of Department's declaration by Tinoco in his manifesto deceived no one; well understood that compelled to publish it himself in the face of alternative given him of publication as handbill by this Legation. He has therefore been placed in ridiculous position in the eyes of the public and his opponents about 95 per cent of what constitutes the public extremely well pleased. However, Congress upon motion of Astua Aguilar, an old and bitter anti-American, passed resolution yesterday in secret session, published to-day, saying declaration has given them surprised and painful impression and strong evidence that action of Department is opposed to illustrious traditions of American people as friend and model of democracies and as defender of rights of small nations. As Department is informed, Congress wholly made up of men nominated by Tinoco and never even announced to public until election day, no other ticket or candidates presenting themselves.

JOHNSON

File No. 818.00/426

President Gonzalez of Costa Rica to President Wilson

[Translation]

NEW YORK, May 8, 1918.

EXCELLENCY: I have the honor to bring to your high knowledge the following proclamation hereinbelow quoted which, as Constitutional President of the Republic of Costa Rica, I issued at 8 o'clock in the morning of this 8th day of May 1918, in which under the Costa Rican Constitution I should turn over the Executive power to the person who should have been elected by the people of Costa Rica:

This day marks the end of the normal period of the presidential term to which I was elected by the Congress on the 1st day of May 1914; on this day I should turn the lawful power with which I was vested on that day to him who should have drawn it from the same popular source under our Constitution. To accomplish that peaceful transfer of power would have brought to my soul the highest satisfaction of my life, for the honest ruler experiences greater pleasure in relinquishing than in assuming the Executive power. But the events which on January 27, 1917, plunged the country into mourning have suspended the whole constitutional life of Costa Rica by making it impossible for the lawful power to perform its function and thereby preventing the performance of its first official act in lawfully turning over all the public affairs to the new ruler. A usurpation born of treachery seized the management of the daily business and held it for a period of months, without the consent of the people who have led a life of unrest and without the concurrence of the great countries which form the family of nations. The unlawful act has had for consequence that the country after so many years in the peaceful enjoyment of liberty and legality has been in a state of confusion at home and abroad, is ignored, out of the pale of international law.

Under those circumstances I can not turn the power over and it would be unpatriotic to relinquish it. To turn it over would be to legalize a condition born of violence; to relinquish it would be tantamount to leaving it vacant and

so bringing about a state of anarchy. I am harboring no personal desire to hold for another day the high office to which I was called by my fellow citizens; on the contrary I shall consider myself as having resigned it from the day when being again in position actually to wield the power in Costa Rican territory the third *designado* for the office of President, Licentiate Don Francisco Aguilar Barquero, may enter upon the duties of the office. But it is my duty as Chief Magistrate and citizen to watch over lawful order at home and respectability abroad, as a member of the family of nations, for my country. These being my only wish and purpose, in the exercise of the constitutional powers and duties that I may use under the necessity of saving the country,

I RESOLVE:

First: The presidential term inaugurated on the 8th of May 1914 is extended until a new President of the Republic shall have been elected or some other legal authority shall have qualified to take the place of the outgoing administration.

Second: All the acts performed or that may be done by those who unlawfully hold the power shall be null and of no value whatever.

Third: As soon as the *de jure* Government may assume power, the third *designado* to the office of President of the Republic, Don Francisco Aguilar Barquero, shall be considered to be called upon to exercise it within the constitutional provisions with the sole object of performing the acts strictly necessary for the lawful transfer of power.

Fourth: This resolution shall be communicated to the citizens of Costa Rica and the representatives of the foreign nations in such manner as may be allowed in the anomalous conditions created by the *coup d'état* of January 27, 1917.

Fifth: The defects in form of this resolution, due to the anomalous conditions created by the *coup d'état*, shall be remedied as soon as the existing state of rebellion comes to an end.

Signed in the City of New York, at eight o'clock in the morning of the eighth of May, one thousand nine hundred and eighteen.

ALFREDO GONZALEZ

With assurances [etc.]

ALFREDO GONZALEZ

File No. 818.00/425

The Chargé in Costa Rica (Johnson) to the Secretary of State

[Telegram]

SAN JOSÉ, May 11, 1918, 8 a. m.

Supposed demands made by Nicaragua of Tinoco being much discussed in all circles. Irias said to be going to Argentina. Tinoco representative, Colonel Casa Miglia, sent to Managua, supposed to have offered compliance with all demands.

Force of some kind from Nicaragua, either by Government direct or by her acquiescence in activities of Costa Rican political exiles now there or on the way, is only immediate prospect of eliminating Tinoco, as it is more evident to-day than ever that force or the implied threat of its use is only thing that will accomplish this. A few initial successes by revolutionists from Nicaragua would make Tinoco amenable to reason and would not necessarily mean A. Volio or Castro Quesada as President.

JOHNSON

File No. 701.1811/48

The Secretary of State to the Costa Rican Minister (Quesada)

WASHINGTON, May 13, 1918.

MY DEAR MR. QUESADA: I have the honor to acknowledge the receipt of your note of March 28, stating that you are going on a trip and will leave Señor Don Francisco M. Montero, 2 Rector Street, New York, in charge of your office, and that, upon the return of Señor Don Juan Rafael Oreamuno, he will take charge of your office.

I am [etc.]

ROBERT LANSING

File No. 818.00/432

The Chargé in Costa Rica (Johnson) to the Secretary of State

[Telegram—Extracts]

SAN JOSÉ, May 18, 1918, noon.

Prevalent opinion is that Tinocos planning to resign in view of their supposed fear that presence of Volios in Nicaragua and exacting attitude of Nicaraguan Government is due to a change of policy on the part of the United States in regard to counter-revolutionary activity on the part of Costa Rican exiles; also that their candidate for their successor is Manuel Francisco Jiménez, lately Minister of Finance, . . . Conservative element making frantic efforts through intermediaries to induce resignation in favor of particular candidate of particular group, one wanting Gonzalez Viquez, another Carlos Duran, both until recent months upholders of Tinoco régime, candidates wholly alienated from Tinoco, and people looking for success of some military movement which will enable terms to be dictated to instead of by Tinoco as to his successor. Plan of Tinoco and of most of conservatives is for permanent successor, whereas wishes of country are for temporary incumbent who will undertake or be compelled by the United States to hold elections. Have heard nothing direct recently as to retirement or successor. . . .

Pedro Perez Zeledon now in Washington supposed to represent radical opposition element here.

JOHNSON

File No. 818.00/436

The Chargé in Costa Rica (Johnson) to the Secretary of State

[Telegram]

SAN JOSÉ, May 23, 1918, 8 a. m.

Third mobilization this year has taken place. After much resistance and many desertions, about three thousand men have been obtained. Pretext is danger from Nicaragua, but real reason, in the absence of definite news of danger from that direction, has been in order to have pretext for grafting. Mobilization and unsettled conditions also to be used as pretext for declaring state of war with Germany, as appears from the fact that yesterday Tinoco appeared

before Congress and in second Chamber demanded that war be declared. It is said that seventeen Congressmen are opposed, in which case program of declaring war to-day may be defeated. Public excitement and indignation at proposed action very great, as it is evident that it is mere scheme to raise money, not merely by confiscation of German property, but by forced loans and contributions. Contract with Bank of Costa Rica whereby it acts as Government receiver of revenues and depositary of security for silver certificates also to be canceled, owing to refusal of bank yesterday to consent to violate the security.

Of considerable political significance also was the formal public presentation on the 21st to Dr. Carlos Duran of a gold medal given by medical society of Nicaragua through the suggestion of ex-Nicaraguan liberal residing here, Dr. Rodolfo Espinoza. Tinoco and diplomatic corps were present. Affair was a great political demonstration in favor of Duran. After ceremonies in theater, crowd went to Duran's house where violent anti-Tinoco speeches were made in the presence of latter, in which he was called assassin of Guell and his companions. Tinoco was loudly hissed on leaving.

JOHNSON

File No. 818.00/437

The Chargé in Costa Rica (Johnson) to the Secretary of State

[Telegram—Extract]

SAN JOSÉ, May 23, 1918, noon.

Joaquin Tinoco informed me this morning that Congressmen yesterday afternoon rebelled against passing of declaration of war, but that after threat was made that Congress would be dissolved if war was not to-day declared, yielded, and that this action will be taken to-day; also that Amadeo Johanning, Minister of Gobernación, rather than sign decree, has resigned and resignation accepted; further, that in order to prove that action is not taken to enrich themselves it will be announced that German property will not be harmed. However, he also informed me that contract with Bank of Costa Rica will be canceled. . . . ; further, that resuming conversations with me regarding persuading his brother to leave the country, he was able to inform me that he had been successful and both would leave together. He stated that object of visit was to inquire whether Rafael Canas, Ascencion Esquivel, or Juan Bautista Quiros would be acceptable as successor, preference being first named because of simplicity of procedure, requiring merely resignation of brother and himself without intervention of Congress. Upon my asking when they proposed going, he replied within a month; upon my asking what he had to say in regard to the obvious public demand that free elections be held soon after their going, he replied that would be a denial of the legality of their own tenure and of the new Constitution they brought into being; that public had acclaimed them and demanded a new Constitution and "should be made to abide by" this one. I replied that hope to submit his inquiry to the Department regarding conversations résumé above referred to. Please see my telegram of April 28, 11 a. m.

JOHNSON

File No. 818.00/445

The Chargé in Costa Rica (Johnson) to the Secretary of State

[Telegram]

SAN JOSÉ, May 29, 1918, 9 a. m.

Joaquin Tinoco called again 25th and reiterated statement that he was determined to go and brother would go with him early in June. However, it will take some time to carry out financial arrangements affording opportunity for graft, and in the meanwhile reports from Nicaragua are not causing them much alarm. This together with strengthened feeling arising from declaration of war no advantage them to change their minds. Contract with Bank of Costa Rica not yet canceled; some hesitation shown at scandal this would cause. Exchange has risen 50 points on rumor of cancelation to be followed by paper money issue.

JOHNSON

File No. 818.00/446

The Minister in Nicaragua (Jefferson) to the Secretary of State

[Telegram]

MANAGUA, May 30, 1918, 4 p. m.

President Chamorro requested me to inform the Department that he has received advice from his agent to Costa Rica that Tinoco had sent about five hundred soldiers in the direction of the Nicaraguan-Costa Rican boundary; that a few days ago he had informed Tinoco's representative, Colonel Casa Miglia, that he could not recognize Tinoco; and that his position was the same as that of the United States; and the best thing for Tinoco to do would be to leave the presidency; and suggested that some one of his friends who would be approved by the United States be made President, and further suggested that Casa Miglia proceed to Costa Rica and so inform Tinoco.

Upon learning of this, Tinoco telegraphed Chamorro that he deemed it of great importance that Casa Miglia should remain in Nicaragua in view of the gravity of the situation and since there are persons there who are working to destroy the friendship between the two countries.

In reply to the above, Chamorro telegraphed Tinoco that he considered it very necessary for Casa Miglia to return to Costa Rica to advise Tinoco of matters of vital importance for the conservation of peace.

Chamorro, before taking further steps, desires to know what is the attitude of the Department and what is the best solution of the question, as the abnormal situation in Costa Rica is a menace to Nicaragua. He is of the opinion that the Department should discontinue all ships' crews' calling at Costa Rican ports and take very strong measures if necessary.

The political exiles, Volios, Castro Quesada and others, who are now here, have succeeded in enlisting the sympathy of many of the Nicaraguans.

The executive committee of the Liberal Party resolved to send Dr. Leonardo Arguello to Costa Rica to advise Tinoco to leave the presidency and thereby avoid further and more serious difficulties.

JEFFERSON

File No. 818.00/445

The Secretary of State to the Chargé in Costa Rica (Johnson)

[Telegram]

WASHINGTON, June 3, 1918, 4 p. m.

Your May 29, 9 a. m. Department does not understand from telegram whether you regard Tinoco's departure as more probable or as less probable in view of strengthened feeling arising from declaration of war.

LANSING

File No. 818.00/446

The Acting Secretary of State to the Minister in Nicaragua (Jefferson)

[Telegram]

WASHINGTON, June 4, 1918, 5 p. m.

Your May 30, 4 p. m. Express to President Chamorro the sincere appreciation that is felt by the Government of the United States for the frank and open expression of friendship and cooperation with the Government of the United States that he has evinced. President Chamorro's suggestion that ships should entirely cease calling at Costa Rican ports is receiving very serious consideration. You may inform the President that the Government of the United States, in readjusting the allotment of ships to be used in the Central American trade, has already taken the position that no Government shall receive more favorable treatment and sympathetic consideration than will be accorded the Government of Nicaragua.

While deeply regretting the unhappy conditions which at present obtain in the Republic of Costa Rica, and which undoubtedly are most distressing and harassing to the Republic of Nicaragua, the Government of the United States can not but feel that all possible patience and forbearance should be exercised at this time, particularly so in view of the possible dangers and complications which any other attitude might lead to.

PHILLIPS

File No. 818.00/448

The Chargé in Costa Rica (Johnson) to the Secretary of State

[Telegram]

SAN JOSÉ, June 5, 1918, 9 a. m.

Your June 3, 4 p. m. In my telegram referred to by you I meant that strengthened feeling arising from declaration of war taken together with reports from Nicaragua which are no longer alarming in spite of just grievances of Nicaraguan Government and of pres-

ence of Volios and Castro Quesada there, and together with length of time required to carry out financial measures designed to enable Tinoco to appropriate sufficient money for himself, renders his departure less probable in spite of Joaquin's reiteration on the 25th ultimo referred to in my telegram. Joaquin has called twice since my telegram and said nothing further in regard to going. As I have attempted to show in my reports for nine months past, moral pressure and financial difficulties will not of themselves force him out. He is not sustained in office by public opinion but by his troops, and revenues can not become insufficient to pay these. The moment his fears of any particular threatened military movement from within or without are for the moment dispelled his inclination to withdraw vanishes. He was willing to discuss leaving only when he feared physical effect of publication of Department's declaration of policy, and again when rumors were plentiful of threatened trouble from the Nicaraguan Government and from Costa Rican exiles in Nicaragua. There is no possibility of moral suasion from Costa Ricans nor of an armed internal uprising.

JOHNSON

File No. 818.00/450

The Chargé in Costa Rica (Johnson) to the Secretary of State

[Telegram—Extract]

SAN JOSÉ, June 10, 1918, 1 p. m.

Arguello, Nicaraguan Liberal leader here on a mission to Tinoco, has informed him of activities of Castro Quesada in Nicaragua and of attitude of neutrality assumed Liberal Party there. Dr. Rodolfo Espinos, a Zelaya of Nicaragua in Washington, left yesterday via Pacific Mail steamship *San José* for San Francisco. Joaquin Tinoco called to-day and informed me that their emissary Casa Miglia in Nicaragua is returning to this country; also that Samuel Piza to be recalled and Guillermo del Guardia now in the United States to replace him in Washington; he expressed his objection to Quesada being given credit that comes from retention in our diplomatic list as Costa Rican Minister; further, that they will not go while threatened from Nicaragua, and contradictorily, that they will go in two months and now want to know opinion of Department as to Juan Bautista Quiros as successor. I told him as his plans do not seem to materialize there is not much chance of receiving an opinion from Washington as to a new plan. Am convinced Tinoco is not sincere about going nor about not going if aggressive action is taken by Nicaragua. . . .

JOHNSON

File No. 818.00/466

The Chargé in Costa Rica (Johnson) to the Secretary of State

[Telegram]

SAN JOSÉ, August 13, 1918, noon.

Yesterday Federico Tinoco appeared before Congress to deny current rumors that he had offered to resign on certain conditions. He

stated that he had merely, in conversation with friends, said that, provided \$3,000,000 were paid for Nicaraguan Canal rights, interest on the foreign debt were suspended for one year, and coffee admitted to English market estimations, he would think of retiring, but that all this difficult of accomplishment at present; that he gave no credence to rumors of invasion from Nicaragua, as Chamorro and he were on best terms and former would not accept permit violation of neutrality especially as between Allies in the war. Also that President Wilson has entered into war in defense of small nations and that if he has not recognized his, Tinoco's Government, [it was because it was the outcome of?] a revolution. Nevertheless President Wilson will not engage in petty intrigues nor permit countries in which he has influence to engage in unjustified aggressions; but that in any event he, Tinoco, would joyfully give his life with his fellow countrymen in defense of liberty attacked by small or great nation. He also referred to certain pernicious foreigners who shall conform to the laws or be considered subject to expulsion. This is understood to refer to Anastasio Herrero referred to in my telegram of yesterday.¹ Full report by mail.

JOHNSON

File No. 818.00/482a

The Secretary of State to the Minister in Guatemala (Leavell)

[Telegram]

WASHINGTON, September 13, 1918, noon.

Department has been informed by Nicaraguan Government that Casa Miglia is on his way to Guatemala to try to obtain arms for Tinoco.

You may intimate to Estrada Cabrera that the Department hopes Casa Miglia will not succeed in getting arms in Guatemala.

LANSING

File No. 818.00/487

The Minister in Guatemala (Leavell) to the Secretary of State

[Telegram]

GUATEMALA, September 18, 1918, noon.

Your September 13, noon. Casa Miglia has arrived, and is accredited to this Government as the regular Costa Rican Chargé d'Affaires, and also elected a member of the Central American International Bureau, as I am informed, by the Minister of State. Nevertheless, in my coming interview with the President, I shall avail myself of the opportunity to make the intimation according to your instructions; meanwhile I had asked Consul Gozo [sic] to caution consular agent at port as to any such shipments being taken on an American vessel.

LEAVELL

¹ Not printed.

File No. 818.00/490

The Minister in Guatemala (Leavell) to the Secretary of State

[Telegram]

GUATEMALA, September 29, 1918, 11 a. m.

My telegram September 18, noon. President Cabrera assures me that he has no knowledge of any such purpose but that he will not allow the purchase if it be attempted.

LEAVELL

File No. 818.00/497

The Minister in Honduras (Jones) to the Secretary of State

[Telegram]

TEGUCIGALPA, October 26, 1918, 11 a. m.

I have been officially informed by the private secretary to the President that the Nicaraguan Chargé d'Affaires in Honduras has just arrived from Nicaragua to present personally to President Bertrand a proposition from President Chamorro to sanction and assist a revolution in Costa Rica with the view of deposing Tinoco and as impracticability [?] establish a normal condition. It is not proposed to reinstate former President Gonzalez. Revolutionists in Nicaragua and Costa Rica undoubtedly have arranged with President Chamorro as to who is to be made President. It is requested that Bertrand join in this movement permitting men and munitions of war to be used in furtherance of it, also that Nicaraguan revolutionists may pass through Honduran territory to the north coast in order to invade Port Limon. He says that ample men [and] money have been provided already and the revolution is thoroughly organized, and further, that whether Honduras joins in the movement or not it will be undertaken by the cooperation of Nicaragua.

President Bertrand wishes to know the attitude of the Government of the United States, whether it will or not tolerate. Not advise or approve but tolerate such movement. His actions will be guided entirely by the wishes of the United States Government. The foregoing has been sent to the Legation in Managua.

JONES

File No. 818.00/514

The Minister in Honduras (Jones) to the Secretary of State

No. 35

TEGUCIGALPA, October 28, 1918.

Sir: Referring to my urgent cable of the 26th instant, 11 a. m., I have the honor to inform you that on the morning of the 26th instant Dr. Rafael Alvarado Guerrero, the private secretary to President Bertrand, called at the Legation and informed me of the request made by President Chamorro, through his Chargé d'Affaires to Honduras, General Evaristo Enriquez, for the cooperation on the

part of Honduras in a revolutionary movement, led by Costa Ricans resident in Nicaragua, and supported by President Chamorro, with the view of deposing the Tinocos. The President's private secretary was extremely careful to make it absolutely clear that President Bertrand had taken no action whatsoever in the matter, and that he would do nothing until he had heard from the Legation whether the United States Government would tolerate such a movement, if it were in possession of the facts in the case; he did not ask if the United States would advise or approve, but tolerate such movement. He professed ignorance as to the party to be named for the presidency in the event of the movement being successful, and stated that Honduras had no private or other interests in any special candidate, being willing to act entirely in accordance with the wishes of the United States Government.

In this connection, I refer the Department to the Legation's despatch No. 731 of June 24 last,¹ in which it was reported that Dr. Salvador Guerrero Montalvan, Nicaraguan Minister on a special mission, had arrived here, his mission being to enlist the support and cooperation of the other Central American states to bring pressure to bear on Tinoco in order that he may give up the presidency. It will be remembered that the arrival of Dr. Guerrero Montalvan marked the first steps of the late Nicaraguan-Honduran boundary dispute, and the request of Nicaragua that President Bertrand permit armed men, whether Nicaraguans or Costa Ricans under Nicaraguan officers, or *vice versa*, to pass through Honduran territory *en route* to Port Limon, is something that needs more explanation than Doctor Alvarado was able to furnish. It is hardly conceivable that, without some ulterior motives, Nicaragua would request permission for armed men to pass through Honduran territory *en route* to Port Limon, since the entrance into Costa Rican territory from Nicaragua is ever so much easier, besides occupying less time.

I am awaiting the Department's instructions, as well as information from the Legation in Managua, in order to communicate with President Bertrand, but it would seem to me that the Department's special attention ought to be invited to the interest displayed by Nicaragua in the Tinoco case, especially so since President Bertrand was advised that whether Honduras joined in the movement or not it would be carried on, there having been ample money and men already provided.

I have [etc.]

T. SAMBOLA JONES

P. S. Dr. Guerrero Montalvan is still in San Salvador, but the Legation has been advised that he has abandoned his efforts of enlisting the assistance and support of Salvador in forcing Tinoco to resign. His prolonged stay there might well be that he is attempting to enlist the same kind of cooperation from Salvador as that requested from Honduras which is reported above.

¹ Not printed.

File No. 818.00/500

The Chargé in Costa Rica (Johnson) to the Secretary of State

[Telegram]

SAN JOSÉ, November 3, 1918, 11 a. m.

Executive decree published to-day grants amnesty to all Costa Rican *emigrados*. That it is for political reasons based on faint hope that *emigrados* will return is shown by the fact that Tinocos confidentially assert that they fear an invasion from Nicaragua at an early day and that money has been sent to *emigrados* from here via New York. Anything to precipitate solution of situation here would be preferable to a continuance of present régime of terrorism and graft. Rafael Iglesias secretly urging upon his friend Chamorro to aid *emigrados* as previously reported.

JOHNSON

File No. 818.00/497

The Secretary of State to the Minister in Honduras (Jones)

[Telegram]

WASHINGTON, November 4, 1918, 2 p. m.

Your October 26, 11 a. m. You will immediately inform President Bertrand that the United States Government has clearly set forth its position in regard to the recognition of Tinoco and that while it regrets deeply the unhappy conditions at present existing in the Republic of Costa Rica it can not approve of any armed activities such as would appear to be contemplated inasmuch as it considers that a constitutional and duly legalized government can only be set up in Costa Rica by such moral forces as can be exerted by the people of that country.

You will also express to President Bertrand the appreciation of this Government for his statement that he will be guided entirely by the advice of this Government in the above connection.

LANSING

The Secretary of State to the Minister in Nicaragua (Jefferson)

[Telegram]

WASHINGTON, November 4, 1918, 2 p. m.

In regard to a proposition which the Department is informed has been made to President Bertrand of Honduras by President Chamorro in connection with revolutionary activities toward Costa Rica, information concerning which the Legation at Tegucigalpa states it has sent to you, you will immediately recall to President Chamorro the attitude of the United States in respect to Costa Rica as set forth in the second paragraph of the Department's cable of June 4, 5 p. m.¹ You will also convey to President Chamorro the

¹Ante, p. 265.

statements which were sent by cable to the Legation at Tegucigalpa for presentation to the Government of Honduras and which read as follows:

[Here follows the above telegram of November 4, 1918, to the American Minister in Honduras.]

LANSING

File No. 818.00/501

The Chargé in Nicaragua (Curtis) to the Secretary of State

[Telegram]

MANAGUA, November 6, 1918, 11 a. m.

Department's November 4, 2 p. m. The President informs me that Honduras alone having approved of the plan to force out Tinoco by moral suasion, that plan seemed unsuitable, and the Honduran Government was then sounded regarding armed action and agreed to this readily. News of this approval was received yesterday and the President intended to consult me and secure the approval of the Government of the United States before proceeding any further, but in view of the Department's declaration, delivered by me, the action under consideration will be abandoned. Copy of this sent Tegucigalpa.

CURTIS

File No. 711.18/8

The Chargé in Costa Rica (Johnson) to the Secretary of State

[Telegram]

SAN JOSÉ, November 13, 1918, 2 p. m.

Popular peace demonstrations, led by Government band, again made last night before British Consulate and Italian Legation. Band failed to go to French Legation or American Legation under orders from Tinoco. However, greater part of crowd went to French Legation anyway and lastly came here, as before denoting were practically anti-Tinoco, as Presidential Mansion passed in silence. At this Legation reference made to President Wilson's reported proclamation in which he referred to establishment of a just democracy throughout the world and it was greeted with significant cheers.

JOHNSON

File No. 711.18/7

The Chargé in Costa Rica (Johnson) to the Secretary of State

[Telegram]

SAN JOSÉ, November 13, 1918, 11 p. m.

At 10 o'clock this evening an orderly crowd of 50 young men, mostly of good family, gathered in front of American Legation cheering for the United States and President Wilson. I had retired and

sent word to that effect. They were on the point of dispersing when up drove an automobile with police under the command of Col. Jaime Esquevel, right hand man of Joaquin Tinoco. The young men scattered but those who did not escape were brutally beaten with swords. Four dashed into grounds of this Legation and have just gone. Among those hurt is son of Argentine Consul General who came out of Argentine Consulate on the opposite corner. Action of police amounts to an insult to me as no word of enmity towards Tinoco uttered by crowd. Evidently a new order of Tinoco to allow no further popular demonstrations before American Legation. Have learned that workmen's organization, four hundred strong, was coming here last night but was stopped by police who arrested several leaders. Other arrests have occurred to-day. Tinoco appeared in Congress this afternoon and referred to alleged innuendo contained in my allusion to President Wilson's reported remarks on materialization of democracy, in my brief remarks to crowd last night. He added that having no diplomatic capacity, he would take no further note of my remarks. Incident which occurred to-night an example of brutal conduct against men who were disobeying no laws on the part of officers and police at the very door of this Legation, to all of which I was an eyewitness. Please instruct.

JOHNSON

File No. 711.18/9

The Chargé in Costa Rica (Johnson) to the Secretary of State

[Telegram]

SAN JOSÉ, November 14, 1918, noon.

My November 13, 11 p. m. It is alleged by several eyewitnesses that Joaquin Tinoco personally was present a few moments at raid on crowd gathered before American Legation last night. In any event he directed whole matter. One American citizen, Victor [Charles] Ross, was among those sabered, but not badly hurt. Whole city discussing incident of last night and Tinoco's reference to my remark previously referred to about hoping that Kaiserism in all parts of the world would now soon be done away with. Believe popular sentiment wholly supports me and condemns action of police last night at door of this Legation. If Department considered case one for an apology from Tinoco, believe war vessel should be sent immediately to Limon.

JOHNSON

File No. 711.18/10

The Chargé in Costa Rica (Johnson) to the Secretary of State

[Telegram]

SAN JOSÉ, November 15, 1918, 7 p. m.

Have learned reliable source that . . . called in as usual to advise Tinoco, sent cables to President Wilson and four Senators regarding incident before American Legation 13th.

Version, reported given by him, absolutely false, as well as reported statement that American colony indignant. At any rate have received numerous proofs yesterday and to-day that colony almost to a man regards incident as an insult to the United States. In fact, I am transmitting long cable for them to this effect, coding of which not yet completed. There may be considerable delay and lack of sequence in my cables due to Tinoco intervention. In addition to men in crowd Dr. Ramon Zelaya, prominent lawyer and frequent visitor here, also arrested. At noon yesterday Joaquin Tinoco sent me note asking for explanation of a spontaneous expression of indignation directed at police that escaped me during acts of brutality. Pending instructions from the Department I replied in the same informal personal form of note that I regarded occurrences of the evening in question as more fittingly calling for an offer of explanation from him. Rumors have reached me this afternoon that Tinoco Cabinet meeting taking place at which my expulsion being considered.

JOHNSON

FILE No. 711.18/14

The Consul at San José (Chase) to the Secretary of State

[Extracts]

No. 393

SAN JOSÉ, November 16, 1918.

SIR: I have the honor to report that on Tuesday evening, November 12, a pro-Ally demonstration was had before the American Legation, without the band, but with a couple of hundred people. The band accompanied the people to all other consulates and legations, and was kept away from our Legation as well as a large number of people by orders of Tinoco, as one man told me when they arrived before our Legation.

Appropriate addresses were made and that of Chargé Johnson was much cheered, although he spoke in general terms. The Tinoco agents reported it and on Wednesday at a special session of the Congress it was discussed by deputies. General Federico Tinoco, who acts as President, made a very strong speech, chiefly in the form of an attack on our Chargé.

That evening a party of friends of the United States went to the Legation and, according to reports, they were cheering for the United States, President Wilson, General Pershing and Mr. Johnson and singing Tipperary when they were suddenly attacked by the police and dispersed with some injured. Among the latter was Mr. Chas. F. Ross, an American who when first struck by a policeman, told him he was an American citizen. The policeman replied that he did not care (*por mí no importa*) and struck him again.

The police had been concealed in a nearby park. From all reports the attack by the police was unprovoked, unjustifiable, and cruel. It seems to have been by orders and was apparently intended as an insult to the United States. The pretense now is that the crowd were revolutionaries, but such is not the fact. They were simply jubilant friends of the United States making merry over our great work in the war and its results. Conditions since then are very bad.

The subject of my despatch No. 381 of October 29, 1918,¹ sent off three cablegrams which were written in the house of Federico Tinoco (Casa Azul) according to reliable information; one addressed to President Wilson, another to some Senators, and another to Mr. Bryan, in which he took sides for the Tinocos and against our Government representative, and falsely stated that he was speaking for the American colony here. His un-American attitude—since being permitted to return to Costa Rica, presumably to attend to his gold mines—is very much resented by all of the substantial Americans in the colony here who feel very keenly the gross insult offered our Government here by order of those now in control. Most people with whom I have spoken feel sure that . . . by his general conduct and talk and misrepresentations has done more to bring about present conditions than any other individual except the Tinocos and his presence here is anything but beneficial to the United States.

There will neither be peace nor security for life or property in Costa Rica until the whole party now running affairs are ousted by whatever means necessary. Americans are in actual danger now and they, together with most of the other people, would welcome any action that would end conditions, no matter how drastic.

Threats have been made against the life of Americans within the past few hours by J. J. Tinoco which may be carried out by some of his dupes.

I have [etc.]

BENJAMIN F. CHASE

File No. 711.18/11

The Chargé in Costa Rica (Johnson) to the Secretary of State

[Telegram]

SAN JOSÉ, November 18, 1918, noon.

My November 15, 7 a. m. Telegram from American colony there-in referred to was abandoned because of news leaking out that telegram to be sent signers feared for their safety and property. Conduct of Tinocos towards me becomes daily more insulting and intolerable, Joaquin absolutely lying to others about me and in last note to me contradicts me in an insulting manner. He has also threatened my life in case of action on the part of the United States.

JOHNSON

File No. 711.18/7

The Secretary of State to the Chargé in Costa Rica (Johnson)

[Telegram]

WASHINGTON, November 19, 1918, noon.

Cable Department exact text of your "brief remarks to crowd."

LANSING

¹ Not printed.

File No. 711.18/12

The Chargé in Costa Rica (Johnson) to the Secretary of State
[Telegram]

SAN JOSÉ, November 20, 1918, 9 a. m.

Your November 19, noon. Exact text to the best of my recollection pertinent part of my brief remarks.

The news as just received announce a proclamation by President Wilson in which he says that it will now be our fortunate duty to assist by example, by sober friendly counsel, materializing the establishment of just democracy throughout the world. Perhaps in these words of President Wilson the peoples of some of the countries of this continent will see reason for hope Kaiserism has gone down to defeat in Germany. Let us hope that it will be done away with wherever on this continent it still may flourish.

JOHNSON

File No. 711.18/11

The Secretary of State to the Chargé in Costa Rica (Johnson)
[Telegram]

WASHINGTON, November 26, 1918, 4 p. m.

Your November 13, 2 p. m.; November 13, 11 p. m.; November 14, noon; November 15, 7 p. m.; November 18, noon.

In view of the recent actions of Tinoco and those acting under his authority, you are instructed to close the Legation and return to the United States. The Legation clerk, Scott, is directed to return with you. You will leave the archives in charge of Consul Chase. If you think it desirable, the services of one messenger may be retained to report to and be paid by Chase. A United States ship will be sent for you. You will be notified of the exact date of its arrival.

Bring with you copies of your recent interchange of informal notes with Tinoco.

LANSING

CUBA

POLITICAL AFFAIRS¹

Precautions Taken by the United States to Prevent a Recurrence of an Insurrection; Lawlessness in Camaguey and Oriente Provinces; Return to Cuba of Moneys Taken from Cuban Revolutionists by American Officers in Haiti; Amnesty Granted to Revolutionists; Pardon of Army Officers Convicted of Attempting the Life of the President; Release from Confinement of Former President José Miguel Gomez; Restoration of Constitutional Guaranties

File No. 837.00/1409a

The Secretary of State to the Consul at Santiago de Cuba (Griffith)

[Telegram—Extracts]

WASHINGTON, August 18, 1917, 8 p. m.

For Morgan Consul General:²

Your letters July 29, August 3, and August 8 to Stabler received.³

. . . Importance and urgency of sending American forces to Cuba is clearly realized by Department, and War Department informed this Department July 24 that it would send a regiment of cavalry to camp for ostensible training purposes in vicinity Santiago and requested that Wittenmyer be instructed to proceed to Santiago to choose site. Before report was received from Wittenmyer, Secretary of War decided that it was impossible to spare any forces from Army for this purpose and at conference in White House between Secretary of War and Secretary Navy it was decided to send a regiment of Marines to Guantanamo to carry out State Department policy. Navy informed Department Marines will leave in few days. This change of plan has retarded action.

Reports in press to effect that United States Government declined invitation of Cuba for training camps unauthorized and source unknown. Department is issuing statement to-day to effect that offer of Cuba for training grounds has been accepted and that troops will go in near future; that this offer of President Menocal shows Cuba's earnest desire to cooperate in war. This statement will be given publicity everywhere. Presence of regiment of Marines in eastern end of Island should restore confidence planters and labor. . . .

LANSING

¹ Continued from *Foreign Relations*, 1917, pp. 350-456.

² Special agent in Cuba.

³ Not printed.

File No. 837.00/1412

The Special Agent in Cuba (Consul General Morgan) to the Secretary of State

[Telegram]

SANTIAGO DE CUBA, August 22, 1917, 5 p. m.

The Department's policy in sending a regiment of Marines to Guantanamo, as intimated in its instructions of August 18, is a source of gratification to all the planters in this end of the Island, and I can assure the Department that this will be a guarantee that there will be no destruction of property in this end of the Island during the next grinding season. Contradictory newspaper reports in regard to the sending of troops had caused much anxiety here among the planters.

MORGAN

File No. 837.00/1415

The Special Agent in Cuba (Consul General Morgan) to the Secretary of State

[Telegram—Extract]

ANTILLA, August 31, 1917, 10 a. m.

Arrived Antilla August 29. A large number of murders . . . are being perpetrated in this province and Camaguey by hired assassins, the victims being members of the Liberal Party who took part in the last revolution. This is terrifying labor here and I respectfully recommend that representations be made to the national Government to desist from this system of revenge and the promise of amnesty made the Liberals when they surrendered be kept.

MORGAN

File No. 837.00/1416a

The Secretary of State to the Minister in Cuba (Gonzales)

[Telegram]

WASHINGTON, September 5, 1917, 4 p. m.

Department is reliably informed that many murders are being committed in Camaguey and Oriente provinces, the victims being in most cases members of the Liberal Party who participated in the recent revolution. This condition is reported as terrifying labor and as creating apprehension lest promises of amnesty will not operate to protect those persons to whom such promises were given. You will please inform the Cuban Government that such reports have reached this Government and express this Government's confidence that the Cuban Government will exert every effort to maintain orderly conditions in the provinces mentioned. This is particularly essential in view of the importance of reassuring the laborers who will be required to handle the next sugar crop.

LANSING

File No. 887.00/1416

The Minister in Cuba (Gonzales) to the Secretary of State

[Telegram—Extract]

HABANA, September 6, 1917, 1 p. m.

Your September 5, 4 p. m. . . . It places me at decided disadvantage to inform the President we have reliable information of many murders being committed in Camaguey and Oriente provinces, the Liberals being the victims, and when he asks who have been killed and wishes to know approximate localities of the crimes, so that officials may be held responsible, I am unable to furnish a single valuable detail. This has happened many times and in such cases I think Legation should have more information.

GONZALES

File No. 887.00/1417

The Minister in Cuba (Gonzales) to the Secretary of State

[Telegram]

HABANA, September 10, 1917, 11 a. m.

Your September 5, 4 p. m. My September 6, 1 p. m. Discussed with President, Saturday, reported acts of violence in Oriente and Camaguey provinces. He said that there had been four assassinations in the former, none in the latter. One probably due to love affair, three undoubtedly revenge by relations of persons murdered during revolution. In each case judge of district instituted investigation. President expressed agreeable surprise there had been so few crimes of this sort.

I suggested that freedom of people from apprehension being indispensable to normal quiet, he issue to all military chiefs instructions to promulgate orders and publish statements calculated to calm possible apprehension and emphasize Government's antagonism to any sort of reprisals, agitation, or other lawlessness, and determination to prosecute offenders. The President thereupon showed me copy of such order issued August 22 expressing these ideas in very positive and satisfactory manner.

GONZALES

File No. 887.00/1419

The Minister in Cuba (Gonzales) to the Secretary of State

[Telegram]

HABANA, September 26, 1917, noon.

Former President Gomez, leading figure in late revolution who for six months has been confined in penitentiary awaiting trial, has been removed to his country place where he will remain under guard. Board of physicians testified to ex-President's critical state of health. Mrs. Gomez also ill.

GONZALES

File No. 837.00/1429

The Cuban Minister (De Céspedes) to the Secretary of State

[Translation]

No. 120

WASHINGTON, October 11, 1917.

MR. SECRETARY: I have the honor to forward herewith to your excellency a copy of the letter¹ written under a decree of the Special Court in charge of Case No. 145, of 1917, in the province of the Examining Magistrate of Santiago de Cuba, by the judge in the case, Eduardo R. Sigler to the Secretary of Justice, in which he asks that the Secretary of State be requested to take the necessary steps with your excellency's respected Government to the end of having placed at the disposal of the said court, as *corpus delicti* in the prosecution conducted by it, the sum of one hundred and ninety thousand pesos (\$190,000) which was taken by the American authorities in the Republic of Haiti from the accused Rigoberto Fernández Lecuona, Luís Loret de Mola y Castillo, Luis Estrada y Estrada, José de Cárdenas Armenteros and Joaquín A. de Oro y Vizcaino, which sum is now deposited in the Department of State under your worthy charge.

By virtue of the said judicial decree and in compliance with my Government's instructions, I have the honor to beg your excellency kindly to direct that the above-mentioned sum be delivered to me to the end and purposes of the proceedings now conducted in the competent court of Santiago de Cuba.

I renew [etc.]

CARLOS MANUEL DE CÉSPEDES

The Acting Secretary of State to the Minister in Cuba (Gonzales)

[Telegram]

WASHINGTON, November 16, 1917, 1 p. m.

Please ascertain and telegraph nature of suit in Case 145, of 1917, before Examining Magistrate's Court of Santiago de Cuba prosecuted on the charges of "rebellion and concomitant offenses against Rafael Mandarley y del Rio, et al." Who are defendants and what is the purpose of the suit? Is the purpose of the suit to determine disposition of the money taken out of Cuba by Fernandez referred to in your telegram April 2, 1 a. m., and subsequent correspondence? Cuban Minister has requested return these funds in connection with this case.

POLK

File No. 837.00/1448

The Minister in Cuba (Gonzales) to the Secretary of State

[Telegram]

HABANA, December 17, 1917, 11 a. m.

Your November 16, 1 p. m. Scholle when Chargé saw President Menocal at the time of Department's first inquiry and was informed

¹ Not printed.

that suit against Rafael Manderley, *et al.*, was for taking part in revolution and is of the same character as all suits against rebellious citizens. It has nothing whatever to do with funds taken out of Cuba by Fernandez.

GONZALES

File No. 837.00/1429

The Secretary of State to the Cuban Minister (De Céspedes)

No. 460

WASHINGTON, January 15, 1918.

SIR: I have the honor to acknowledge the receipt of your note of October 11 last in which you enclose a copy of a communication from the judge of "the Special Court in charge of Case No. 145, of 1917, in the province of the Examining Magistrate of Santiago de Cuba," to the Cuban Secretary of State, in which the former asks that the Cuban Government will take the necessary steps to obtain from the Government of the United States, for use by the Court "as *corpus delicti*" in the prosecution "on the charges of rebellion and concomitant offenses, against Rafael Manderley y del Rio, *et al.*" the money received by the American authorities in the Republic of Haiti from the accused persons, Rigoberto Fernández Lecuona, Luís Loret de Mola y Castillo, Luis Estrada y Estrada, José de Cárdenas Armenteros and Joaquín A. de Oro y Vizcaino.

The Department, in order to obtain more definite information regarding the nature of the judicial proceedings in question, directed an inquiry through the American Legation at Habana and has received a reply stating that the President of Cuba has informed the Legation that the judicial proceedings "against Rafael Manderley, *et al.*, is for taking part in revolution"; that they are "of the same character as all suits against rebellious citizens," and that they have "nothing whatever to do with funds taken out of Cuba by Fernandez." In the circumstances, therefore, I am somewhat reluctant at the present time to direct the payment of the funds in question in the manner suggested.

In the document accompanying your note of May 29 last,¹ regarding the suggested extradition of the accused persons, it was alleged that these funds belonged to the Department of Public Works, the Provincial Council, the Customs Service, the Department of Posts, the Fiscal Zone and "merchants and establishments" in Santiago. This allegation is substantiated in the main by a communication which the Department has received direct from Fernandez.

In view, therefore, of the apparently public character of the greater proportion of the funds, I am prepared to direct their delivery to the Cuban Government for distribution in accordance with the law of that country if I can be assured that the Cuban Government will thereafter hold the Government of the United States and its officers harmless from all claims of whatsoever nature which may be brought against it or them by Fernandez, *et al.*, the Cuban Government or any agency thereof, or otherwise, on account of the

¹ Not printed.

possession or transfer of these moneys by the Government of the United States or on account of any action of the United States or its officers in regard to them, or otherwise.

I shall be glad to receive an expression of the views of the Cuban Government regarding the delivery of the funds to it under the circumstances just indicated.

Accept [etc.]

ROBERT LANSING

File No. 837.00/1460

The Minister in Cuba (Gonzales) to the Secretary of State

[Telegram]

HABANA, January 29, 1918, 11 a. m.

Referring to my despatch of January 24, No. 572.¹ Last evening House of Representatives was enabled to establish a quorum with attendance of total Conservative membership and passed the limited amnesty bill to which the President consents. No Liberals attended. It is believed Senate will pass measure.

GONZALES

File No. 837.00/1464

The Cuban Minister (De Céspedes) to the Secretary of State

No. 44

WASHINGTON, February 21, 1918.

MR. SECRETARY OF STATE: In answer to your excellency's note No. 460, dated January 15, 1918, I have the honor of informing your excellency that my Government has instructed me to assure you that upon delivery of the funds received by the American authorities in the Republic of Haiti from the accused persons, Rigoberto Fernández Lecuona, Luís Loret de Mola y Castillo, Luis Estrada y Estrada, José de Cárdenas Armenteros and Joaquín A. de Oro y Vizcaino, the Government of Cuba will thereafter hold the Government of the United States and its officers harmless from all claims of whatsoever nature which may be brought against it or them by Fernandez, *et al.*, the Cuban Government or any agency thereof, or otherwise, on account of the possession or transfer of these moneys by the Government of the United States or on account of any action of the United States or its officers in regard to them, or otherwise.

Accept [etc.]

CARLOS MANUEL DE CÉSPEDES

File No. 837.00/1465

The Minister in Cuba (Gonzales) to the Secretary of State

No. 584

HABANA, February 23, 1918.

SIR: I have the honor to inform the Department that the President of the Republic on February 22, 1918, issued a decree pardoning the following Army officers: Capt. Domingo Socorro Mendez, Capt.

¹ Not printed.

Aniceto Castro Caraveo, Lieut. Ramon Castellanos, Lieut. Norberto Lopez Bacelo.

These officers had been tried by court martial for attempting the life of the President at the time of the last revolution, and had been condemned to death. Later the penalty was changed to life imprisonment; and recently the President commuted this to imprisonment for one year.

I have [etc.]

WILLIAM E. GONZALES

File No. 837.00/1464

The Acting Secretary of State to the Cuban Minister (De Céspedes)

No. 226

WASHINGTON, March 2, 1918.

SIR: Referring to the Department's note No. 460 of January 15, 1918, I have the honor to acknowledge the receipt of your note of the 21st ultimo in which you advise the Department that your Government has instructed you to assure the Government of the United States that upon delivery of the funds received by the American authorities in the Republic of Haiti from the accused persons Rigoberto Fernández Lecuona, Luís Loret de Mola y Castillo, Luis Estrada y Estrada, José de Cárdenas Armenteros and Joaquín A. de Oro y Vizcaino, the Government of Cuba will thereafter hold the Government of the United States and its officers harmless from all claims of whatsoever nature which may be brought against it or them by the above-mentioned persons, the Cuban Government or any agency thereof, or otherwise, on account of the possession or transfer of the funds received by the Government of the United States or on account of any action of the United States or its officers in regard to them, or otherwise.

I have the honor in reply to request that you will at your convenience call at this Department and receive the above-mentioned funds in the name of the Government of Cuba and deposit in the Department a receipt therefor.

Accept [etc.]

FRANK L. POLK

File No. 837.00/1473

The Cuban Minister (De Céspedes) to the Secretary of State

No. 57

WASHINGTON, March 7, 1918.

Received of Mr. Frank L. Polk, Acting Secretary of State, three checks against the National City Bank of New York; one for \$191,800.00, one for \$19.38 and one for \$9.23, making a total of \$191,828.61, received by the American authorities in the Republic of Haiti from the accused persons Rigoberto Fernández Lecuona, Luís Loret de Mola y Castillo, Luis Estrada y Estrada, José de Cárdenas Armenteros and Joaquín de Oro y Vizcaíno.

CARLOS MANUEL DE CÉSPEDES

File No. 837.00/1471

The Minister in Cuba (Gonzales) to the Secretary of State

[Telegram]

HABANA, March 19, 1918, 4 p. m.

Amnesty bill as slightly amended by the Senate passed House yesterday. President signed to-day.

GONZALES

File No. 837.00/1474

The Minister in Cuba (Gonzales) to the Secretary of State

[Telegram]

HABANA, March 21, 1918, 11 a. m.

My March 19, 4 p. m. José Miguel Gomez, former President of Cuba, released under amnesty bill.

GONZALES

File No. 837.00/1493

The Minister in Cuba (Gonzales) to the Secretary of State

No. 758

HABANA, August 16, 1918.

SIR: I have the honor to inform the Department that on the 14th instant, the constitutional guaranties, which had been suspended since the revolution of February 1917, were restored by presidential decree, and the accompanying proclamation (translation) to the press was published simultaneously with their restoration.

Months ago the President announced that he would restore the constitutional guaranties when, and only when, the laws he asked for, which would enable him to discharge his international obligations, were passed by Congress.

I have [etc.]

WILLIAM E. GONZALES

[Enclosure—Translation]

President Menocal's Proclamation of August 14, 1918

To THE PEOPLE OF CUBA:

The voters of the country having on the 2d of August been convoked by the Central Electoral Board for the election to be held on the first of November next, the moment has arrived for the rival political forces to work with entire freedom and firm decision under the protection of the constitutional guaranties restored by my decree of this date with the single exception of the guaranty contained in Article 22 of the Constitution in respect of private correspondence, which must continue subject to censure, for the duration of the war, for obvious reasons of public safety.

Suspension of the guaranties had not, it must in justice be said, subsisted in detriment of the political rights of citizens, nor for any political purposes whatever affecting the internal life of the nation, after the seditious movement of February (1917) had been put down, but for the purpose of more effectively keeping down espionage and the machinations of agent or auxiliary subjects of enemy powers in the great struggle for right, liberty and international justice, in which Cuba has of her free will and with energetic resolution joined

her destiny with those of the Allied Nations for the defense and victory of that noble cause and its high and supreme ideals.

It was not possible, therefore, to restore the constitutional guaranties in the absence of special laws for the detection of espionage and for the surveillance and repression of enemy aliens; for without such laws the Government would have been helpless in the face of unavoidable exigencies of the existing state of war, as compelling for our own safety as for the loyal fulfilment of our obligations to the Allied Nations.

Those laws have now been enacted and vest in me, if not all the exceptional means and all the extraordinary powers available, in this terrible world crisis, not only to the governments of belligerent nations but to those of nearly all the neutral nations, and especially of our great neighbor Republic, illustrious model of liberty and democracy, which has omitted no precaution nor effort, nor sacrificed to vain theories the supreme necessity of national defense, at least the most indispensable of such means and powers. Although deeming them insufficient in certain contingencies for the object sought, I have not cared further to delay the restoration of constitutional guaranties, the suspension of which, I must repeat, no one can rightly claim has been used for purposes of internal politics nor for the purpose of preventing or interfering with the exercise of their rights by any party or person.

Those who wish and whose duty it is to participate in the forthcoming electoral struggle have wide and free avenues open to them in the law and with no other restrictions than those prescribed by law. All may and ought to go to the polls in defense of their respective ideals, of their political aspirations, and of their candidates, with enthusiasm and decision, but also with the composure and discipline proper in free peoples.

To all I offer, whatever their party badges or their purposes or platforms, entire impartiality on the part of the Government and the most effective guaranties for the purity and freedom of suffrage. I hope that all will observe the limits which wisdom and civism impose upon the activities of contestants, and that none will forget that the rights of each must be harmonized with the rights of others and that never as in the present moment has it been so important to raise and dignify party strife by that scrupulous respect for law and order which is the prime necessity of democracies. I pin my faith in that the forthcoming election will be held with the utmost freedom and will be as hard-fought as orderly, without prejudice to the higher sentiments of national solidarity which the state of war ought to awaken in all hearts animated by the pure throbs of patriotism.

HABANA, August 14, 1918.

M. G. MENOCAL

FINANCIAL AFFAIRS

Authorization by the Government of Cuba of a Loan of Thirty Million Pesos; Attitude of the United States; Establishment of a Credit for Fifteen Million Dollars by the Treasury of the United States Secured by Bonds Issued by the Government of Cuba

File No. 837.51/247a

The Secretary of State to the Minister in Cuba (Gonzales)

[Telegram]

WASHINGTON, June 18, 1917, 5 p. m.

Mail Department full translation of provisions of decree authorizing loan of thirty million pesos and for increased revenues, reported in *La Lucha* of May 27 last.

LANSING

File No. 837.51/248

The Minister in Cuba (Gonzales) to the Secretary of State

[Extracts]

No. 470

HABANA, July 2, 1917.

SIR: Referring to the Department's cabled instruction of June 18, 1917, I have the honor to transmit herewith a translation of President Menocal's decree¹ providing for a 30,000,000-dollar loan and the taxation measure to furnish revenue for the interest and amortization of the same, together with the *Gaceta Oficial* containing the decree.

This decree was issued after the President had failed to get action by Congress, and I interpreted it as giving notice to Congress that if it refused to support the administration plans, the President would act independently. Such course would be the last resort and he wishes action by Congress, which is, however, bent upon driving bargains before agreeing to any administration measure. . . .

After the President issued his decree the opposition in Congress indicated a disposition to pass the measure in the regular way. No attempt therefore has been made to put the decree into effect, as, in view of its legality being questioned, the President greatly prefers congressional action.

The administration's majority in the House is exceedingly narrow, and as the tactics of the Liberals is to break quorum, it requires the attendance of practically every Conservative, and a few of these are disaffected. A deadlock is now in practical effect, with adjournment of Congress set for July 13.

I asked the President on Saturday what he would do if, in this time of war, the Congress adjourned without acting on war measures or the matter of the Ports Company settlement. He said that it was a serious situation, but that he had greater powers when Congress was not sitting and might be forced to assume the responsibility of decided, if unusual action. . . .

I have [etc.]

WILLIAM E. GONZALES

File No. 837.51/249

The Minister in Cuba (Gonzales) to the Secretary of State

[Telegram]

HABANA, July 13, 1917, noon.

Congress last night voted authority for 30,000,000-dollar loan asked for by the President.

GONZALES

The Acting Secretary of State to the Minister in Cuba (Gonzales)

[Telegram]

WASHINGTON, July 19, 1917, 4 p. m.

Your July 13, 12 noon. You are instructed to remind Cuban Government of treaty provisions as to loans and previous practice to

¹ Not printed.

obtain approval of the United States after submitting full data as to existing and proposed new indebtedness and revenues applicable to payment of principal and interest. See Department's telegram September 25, 6 p. m., 1912.¹

POLK

File No. 837.51/251

The Minister in Cuba (Gonzales) to the Secretary of State

[Telegram]

HABANA, July 24, 1917, noon.

President Menocal has vetoed bill granting authority to make issue 30,000,000-dollar loan. Cause of veto certain restrictive provisions, one requiring advertisements for bids and also elimination by Congress of certain taxes including stamp tax proposed by President for interest and amortization.

GONZALES

File No. 837.51/252

The Minister in Cuba (Gonzales) to the Secretary of State

[Telegram]

HABANA, July 26, 1917, 11 a. m.

My telegram of July 24, noon. Congress accepted veto and House passed new measure satisfactory to President except that tax on iron and copper too high. He hopes to get Senate pass same bill before adjournment that is imminent, and will suspend part of iron and copper tax expecting reduction by Congress next winter.

GONZALES

File No. 837.51/253

The Minister in Cuba (Gonzales) to the Secretary of State

[Telegram]

HABANA, July 28, 1917, 11 a. m.

Cuban Senate has passed House bill authorizing 30,000,000-dollar loan with the accompanying tax measure providing for interest and sinking fund. This bill carries tax one-quarter of a cent a gallon on molasses produced in Cuba.

GONZALES

File No. 837.51/255

The Minister in Cuba (Gonzales) to the Secretary of State

No. 481

HABANA, August 1, 1917.

SIR: I have the honor to send herewith a translation of President Menocal's message vetoing the act of Congress which authorized a

¹ Not printed.

30,000,000-dollar loan and imposed special taxes to provide for interest and the retirement of said bonds. The veto, as already announced to the Department by cable, was sustained, and a measure having the President's approval, passed.

The lengthy translation of this message has been prepared for the Department because, besides being unusual for Cuban Executives to present arguments to Congress in this manner, it furnishes in as succinct form as is likely to be obtained, the viewpoint of the Government on taxation problems of the country, and therefore is of interest and value.

I have [etc.]

WILLIAM E. GONZALES

[Enclosure—Translation]

Presidential veto to the loan law

To THE HOUSE OF REPRESENTATIVES:

I have the honor of returning to the honorable legislative body from which it proceeds and with the objections appearing to me, the bill authorizing the issue of bonds up to 30,000,000 dollars, which was submitted to me, as provided in the Constitution, on the 12th instant.

The time which has elapsed since a great problem of public order, internal first and international war afterwards, brought a serious financial crisis to our Republic, has somewhat diminished in the minds of everyone the nature of the pending problems, and it is well that we recall the facts in order to appreciate to their full extent the obligations we are endeavoring to meet.

Since the beginning of the month of February, the execution of the budget—which is defective in itself—suffered a serious interruption, as it was the budget approved in the fiscal year of 1914 to 1915 and extended in accordance with the laws in force. By means of the law of March 7, it was necessary to authorize the Executive to suspend the application of the budget and authorize him to dispose of the funds in the Treasury to meet the needs arising from the military rebellion.

The principal thing then was to maintain public order; the budget was strictly limited to the fulfilment of the ordinary obligations expressly set forth in same, suspending the application of the laws and special credits, which constitute a special budget of the legislative body already (it can be said) traditional among us.

During such an abnormal situation and while suffering from the ravages of the civil war, we were confronted with the international war, and I was authorized by the joint resolution of April 7, to dispose of the Nation's land and naval forces as I thought fit, using the existing forces, reorganizing same or creating others, and to dispose of the financial resources of the nation to the extent that the needs demanded.

For these reasons, without making use of the powers conferred, I addressed Congress on April 18, requesting it to join in the task imposed upon me, and asking that I be allowed to create taxes to meet the needs resulting from both wars and other obligations of the Treasury; I did not limit my request to the issue of bonds (as the financial administration is authorized to do so in any serious emergency) but asked assistance from the financial resources of the nation—as set forth in the joint resolution—in the two ways of obtaining same, namely, by taxation and by making use of the nation's credit in order to collect funds, as neither way, if taken separately, would suffice to meet the great public requirements already existing, and other permanent needs to come, as the obligations of the treasury of a nation and national needs never return to what they were prior to great historic happenings.

An unmistakable exposition of this situation is set forth in the decree of May 26, intended to arrive at a definite conclusion in the matter. In said decree it is stated that the taxes are intended to cover the interest and amortization of the floating debt and to provide the Public Treasury with permanent means; and in case it was not thus stated, it could be so clearly understood from the kind and nature of the taxes which were to be imposed.

It is not possible that the Nation rely only upon its credit for the fulfilment of its obligations. In all loans or extension of time for the payments of debts there are two volitions (meaning that of the debtor and that of the creditor) and when the big nations of Europe and America, in which the transactions of capitals really exist, have found themselves tangled up in the awful struggle which actually absorb their activity and energy, they all have appealed to the taxable resources, imposing them as far as they can resist. Bond issues, hypothecation of securities, direct and indirect taxes, charges upon circulation and consumption, suspension of free trade, limiting trade competition, all kinds of monopolies are created, and this is the way that the problem is solved in the free countries of North America as well as in the autocratic countries of Europe and Asia. The United States have started in the great struggle by authorizing the disposal of an amount up to \$10,000,000 and by fixing taxes up to \$1,800,000,000 per year.

It is not therefore an unusual thing that the Republic of Cuba should need, besides the authorization for the disposal of an amount up to \$30,000,000, ways and means that may, during the disposal of the bonds, bring in about ten or twelve million dollars, three millions of which are required for a special purpose. Our public finances can well stand it, as our international commerce in 1916 amounted to over \$600,000,000; and the amounts consigned in our budget, with the exception of those applied to our foreign debt, run through all the arteries of our social body especially in the shape of salaries.

A proof that we require permanent funds to meet current needs, because they consist of permanent services which tend to increase instead of diminish, is the increase of salaries to public teachers, which is not provided for in the present budget, because the law ordering that the salaries be paid from ordinary public incomes (and not from the surplus from salaries of employees of Public Instruction as previously ordered) was not duly adopted until January of the current year. Said increase amounts to \$1,737,719 a year. During the last days of the past session Congress voted a law creating 972 schools of elementary instruction, thereby increasing the liabilities of the Treasury in more than a million dollars. Including other less important appropriations, the new expenses for Public Instruction amount to nearly \$3,000,000 a year.

The annual credits of the fixed budget have also been increased by additional salaries of Senators and Representatives and of the employees of the Judicial Power. Big subventions for railroad companies in the Provinces of Pinar del Rio, Santa Clara and Camaguey have been approved, and it is further necessary, as was noted in the last campaign, to construct the central road and to repair the existing roads, which were poorly constructed and are now very deteriorated by the productive, but destructive, traffic of the sugar mills. By taking a look at the figures contained in my message to Congress in regard to the current budget, it will be seen that the credits for Public Works services amount to millions of dollars, and which were not included in said budget because the income is insufficient (in spite of the maximum output which has been reached in the past years) to cover so many and so heavy obligations.

It is very important to note that the income is not reduced in the current budget so as to leave a fictitious surplus, but is included in its highest yielding under the present special circumstances, and that the expenses reach the same amount as the income, giving an exact balance; it can thus be seen that there is no margin for unexpected payments from Treasury funds not available.

Congress has thought fit to cancel in the expense column the sum of \$1,841,736.66, being the amount required for amortization and interest during the fiscal year of a part of the 5,000,000-dollar bond issue of January 1, 1915, authorized by the financial defense law of October 1914, based upon the fact that the bonds of the new 30,000,000-dollar issue may among other things be exchanged for the outstanding bonds of said issue; but the exchange thereof depends upon the will of the bondholders and they are not obliged to do so; further, the amount included in the budget can not be disposed of only to the extent the creditors may desire. It is an eventual resource which can not be counted upon.

I forgot to note, among other credits, the increase of salary to the diplomatic and consular officers on account of the war and the \$675,000 just voted for the pavement and sewerage of streets in Matanzas and Cardenas.

Another reason for the unavoidable increase of public expenses and for providing the National Treasury with ample resources, is the high cost of

provisions in European and American markets, including both natural products absolutely necessary for living, and manufacturing products. The food for the soldiers and animals of the Army and for all of the other branches of the Government; the remounting of the cavalry; the large quantity of articles and provisions used up in other establishments of the state, such as hospitals, asylums, jails, penitentiaries, public offices, etc., in short, the high cost of all materials, which is one-half of the public consumption and which the amounts included in the budget have not been able to meet, require large sums of money just to modestly maintain ordinary services.

This is why I requested ordinary and extraordinary resources: the latter for transient needs, as those depending upon special circumstances, such as the increased price of provisions absolutely necessary for living, both human and animal, and those consumed by the public administration in its numerous and extensive services. These could be met by the special tax on sugar, 10 cents per bag, besides the additional tax fixed by the House of Representatives upon molasses per gallon (which, in the opinion of the Government should not exceed $\frac{1}{4}$ cent per gallon) and the other needs pertaining to permanent and definite services, which tend to increase instead of diminish, such as the \$3,000,000 for Public Instruction, the great number of credits for developments and public works in general, those for Sanitation and Charity, Legislative and Judicial Powers, could be covered by the ordinary tax on sugar, of 10 cents per bag, and by the impost upon firms and corporations referred to in the decree, leaving the remaining taxes, such as stamps and other, for the payment of interest on the floating debt and yearly amortization, as it is a sure thing that said floating and temporary debt can be converted into a consolidated perpetual debt, that will relieve the public obligations and will be up to the standard which our Republic has been able to attain in the financial markets of the world, thanks to the sacrifices it has always been willing to suffer in order to fulfil its internal and external obligations.

The bill which I respectfully return has deviated from the decree of May 26, which fact is an important precedent in this matter, as well as from the bill approved by the House which, in different ways, tended to meet the needs of the Treasury. It furnishes the Government just the funds strictly necessary—if the crops don't diminish—for the interest and amortization of the floating debt, just as if all the needs of the Treasury were reduced to the issue of the \$30,000,000 to the ends set forth in paragraphs 3 and 4 of Article 1 of the bill. For interest and amortization alone there will be needed, from January 1, 1919, more than \$5,000,000, and at that time it is probable that the income from taxes will have decreased, as the production and industrial profits, due to the special circumstances created by the European war, will have decreased. In order to further curtail the resources requested, the Executive has been deprived of the discretionary powers, which in such cases all the governments of the world need and must have, and contrary to the precepts of the accountability law, a special cash fund is created, appointing inexorable guardian of the Treasury and even as criticiser of the acts of the head of the Executive power, a subordinate employee of a Department of the Government, such as the Treasurer General of the Republic, which fact is clearly set forth in Article 5 of the bill, which reads:

The incomes from the fixed taxes will remain as deposits in care of the Treasurer General of the Republic, against which no amounts can be drawn nor any sum disposed of, only for the payment of interest and amortization of this debt, as well as to pay the expenses in connection with the collection of the taxes. Consequently it is prohibited to transfer or dispose of the funds in question in any way, not even for the payment of other services that may be of a like nature to those authorized, excepting what may be ordered in the future by special laws of Congress for the disposal of the surplus that may result.

In this way the President is tied up, whereas on the other hand he was fully empowered by the joint resolution of April 7, and a special law is voted contrary to the general rules of public accounting, in connection with the emergencies and needs created by the state of war and international relations never before seen in the history of the world.

The impost on companies and corporations is increased to 20 per cent, so that on a basis of an actual income of \$1,200,000 it will yield \$240,000 more,

and with other additions made will not exceed an increase of \$600,000, or three times as much—or about \$2,000,000—with others that may be added. The other taxes authorized are complementary and will only afford resources for the administration and collection of the imposts, without adding any important amount to the Public Treasury.

But above all, Article 5 above quoted, does not provide for any of the constant public needs derived from the budget and other special laws, nor does it make any allowance for the increased prices of materials to which I have referred in this message.

In my opinion there are important objections to be made in considering the tax fixed by the bill—

on the first transportation of sugar, at the rate of 1 cent for each arroba (25 pounds), it being understood that when the mill pays the planter in cash for the arrobas (25 pounds) of sugar which he is to receive, it will have a right to deduct from the price as many cents as arrobas (25 pounds) he is entitled to; and should the mill pay the planter with sugar instead of cash, the tax will be for the account of the party in whose name the sugar is delivered.

The tax herein fixed will be paid by owners of sugar mills or their representatives, upon transportation of the sugar from the sugarhouse to the wharves or warehouses, upon the presentation of a sworn statement to the administration of rentals of the corresponding fiscal zone.

The hurry with which said article was framed is undoubtedly the cause of its confusing meaning, which should be avoided in framing tax laws, which private interests always try to dodge. In the first paragraph two possible things are stated; first, that which refers to the mill paying the planter in cash for the arrobas (25 pounds) of sugar he is entitled to; second, when he pays him with sugar. In the first case the mill will have the right to retain from the price as many cents as arrobas (25 pounds) the planter is to receive; in the second case the party receiving the sugar is to pay the tax. But it results in a conflict with the following paragraph which, in a general sense, states that the tax thus fixed will be paid by the owners of the mill or their legal representatives upon transportation of the sugar from the sugarhouse to the wharves or warehouses; therefore the planter in this case is completely discarded and there is no distinction made when paying in sugar or when paying in cash; still more so, when the owners or legal representatives are in charge of the collection and make the sworn statement before the fiscal zone, which is to serve as a base for the amount of tax to be paid, without the planter intervening at all.

It appears that the tax has a bearing upon the circulation of sugar, as it is fixed upon the first transportation of sugar from the sugarhouse to the wharves or warehouses; but as sugar is also transported directly from the sugarhouse to foreign countries or is sold for immediate consumption or to local refineries, without passing through the wharves or warehouses, it would thus not pay any tax. The place where the factory is situated, which is an important factor, is given no attention in connection with the tax. As a law is only effective when it clearly defines or creates obligations, with effective sanction and well-defined responsibilities, it is really anomalous that the owner of the mill is the one to make the sworn statement and pay the tax, and be granted the right to transfer same, retaining from the planter who gets cash for his sugar cane, 1 cent for each arroba (25 pounds) of sugar, and the planter who is paid with sugar is fully responsible for the payment of the tax, being the case that the former, the planter that is paid in cash, has nothing to do with the first or following transports of sugar, as he is left free from all responsibility with the administration; but the planter who is paid with sugar still remains in touch with the exchequer and with his sugar encumbered, subject to the results of the sworn statement submitted by the owners of the mill.

By all means the legal text is really doubtful, and nothing should be clearer, from a sound administrative and fiscal principle, than the reason for taxation, the party who is to pay the tax, and the financial responsibilities of the taxpayer.

If with such phrases the bill has tried to dodge any prohibition of fixing a tax on sugar, it is based on an error, as there is no legal precept that excludes any special industry from the obligation of paying taxes to the state in order

to raise funds to meet public obligations; the constitutional precept which obliges all citizens to contribute in proportion to their income, is universal. It would be necessary that a very clear exception be made in order to exclude the sugar industry from contributing in any of the forms established. As there is no exception made, no limit should be recognized that might tend to modify the constitutional rights of the nation. Further, it would be contrary to all financial principles in regard to taxation, to suppose that by merely changing the tax's name and baptizing it with the name "the first transportation of sugar," the nature of same would be changed and would not be considered as the same tax from a financial as well as fiscal viewpoint.

Sugar will always be well taxed, no matter if the tax is fixed upon leaving the machinery in which it is manufactured or at any other time. The only difference between the decree of May 26 and the bill is that the former considers the product already finished, namely, packed, which is an unavoidable industrial process, whereas the first transportation to wharves and warehouses is an act of secondary importance or complementary (if you so desire to call it) without any fixed time for doing so, which can be evaded by the manufacturers, giving way to investigations and vexation against the taxpayers, more so when a distinction is made between the planter who collects in cash, whose tax is withheld by the owner of the mill, and the planter who is paid with sugar and has to pay the tax.

The facts submitted are obvious and it is also obvious to meditate over the two parties mentioned in the bill. In the manner in which the tax is fixed, the Government would be required to study in each case the financial and legal relations existing between the sugar manufacturer and the sugar-cane planter, relations which are so different and complex that in order to ascertain their nature the services of technical men—who are hard to find—and a long while to fix the tax, would be required.

The manufacturer may be one man or a corporation; he may be the owner or lessee of the mill, including or excluding the surrounding lands for the cultivation of sugar cane; he may cultivate his lands under administration, lease them, or go into partnership; he may collect the rents in cash at a stipulated price, leaving the planter at liberty to sell his crop at a current or stipulated price, or fixing a cash rental with the obligation of selling his cane to the manufacturing lessor at a price agreed beforehand, in which the rent has been deducted, taking over the cultivated cane at a price previously agreed upon or giving a certain number of arrobas (25 pounds) of sugar for the usual quantity of sugar cane in that kind of transactions; in short, all kinds of combinations, with inexhaustible inventive spirit of profit, can be made, based upon the liberty of contracting and upon the nature of the relations existing between the manufacturers and planters.

If the object of the bill is to fix the tax in such a way that the planter will be the one to pay it, the legislator has put himself in a forbidden sphere of action, so far as the financial organization is concerned, based upon the liberty of contracting, as the transfer and diffusion of the tax is in direct relation to the value; at the moderate rate of 10 cents per bag in normal times, there will be no discussion; the difficulty of solving the problem arises when higher taxes are imposed.

Only in regard to indirect taxes, such as customhouse duties and alike, does the legislator consider the transfer to other economies; namely, he admits that the taxpayer, *viz.*, the merchant, transfers to other merchants, and these to the consumers—who are in definite the taxpayers—the amount of the tax which he advances together with the interest and profits in relation to the capital invested.

In all other cases the administration leaves to the liberty of contracting the evolution relative to the repercussion, diffusion, and incidence of the taxes. Restraining measures in this kind of matters do not work.

The tax on molasses, which the bill fixes as an ordinary tax, was accepted by the administration when the House submitted it as a special tax, but was reduced to $\frac{1}{4}$ cent per gallon, which would yield an income of \$300,000 more or less, that merits taking advantage of the present high price of said product—which is an annex to the sugar industry—although, so far as our allies are interested in this business, we must remember that it is a raw material used in the manufacture of powerful explosives. If the tax is raised to 2 cents and is considered as an ordinary or long-period tax—at which it is excessive—tax on molasses would have no value in normal times.

Another tax worthy of attention is that which is fixed upon the transfer, adjudgment, and foundation of chaplaincies, charitable funds or establishments, mine specifications, and religious entailments. Its nature is that of a confessional tax; in other words, it tends to encumber religious institutions of a fixed class and in a disproportionate manner and in general contradiction with our tax system, as it encumbers the capital, and not the profits, rents, incomes, nor the actions of citizens, exclusively affecting the Catholic Church, which maintain such institutions. The chaplaincies are intended for different purposes, which are not necessary to define; they do not belong among the patrimonial estates; as a rule they are founded upon consignative or reservative mortgages, the constitution and transfer of which, among living persons or *mortis causa*, is subjected to the liens on transmission of property, a very old impost among us, not constituting any other legal precept as they are not even mentioned in our civil code, which does not recognize any kind of entailments, not even trustees, only in a very limited manner. In our Republic the church is entirely separated from the state; it exists with common rights, and it is not just to impose special taxes upon same, just as if we were coercively trying to impair institutions which maintain a worship acknowledged by the Constitution and which is protected by the equality of principles before the fundamental law of our society.

The bill has wholly done away with the stamp taxes. They were included in the decree of May 26 and in the bill of the House with a few changes. They have been attacked without reason and have even been censured because of their existence during the Spanish domain, as if in case they should be considered as a defect, they would not also be a vice of common origin in our tax system, because the Republic has not invented the customhouses, the postage stamps nor the industrial taxes, nor the land tax, nor the lottery nor any of the other kinds of revenues which constitute the fiscal patrimonies of our cities, provinces and National Government.

They were not invented by the Spanish colonial system: they are a universal tax system, which exists in the five continents of the world and in all kinds and systems of governments, from the most absolute autoocracy to the most advanced democracies, under different forms and processes, but nearly alike. Even the lottery, which is rejected in many civilized nations, is admitted as a means of creation and extinction of obligations in different ways.

In the United States and Mexico, in all Central and South American countries, in Europe and Asia, the stamp tax has been extraordinarily developed in the past years, and there is no reason why Cuba's sovereignty should be limited, depriving her from a healthy and abundant source of income, when her needs grow as her population increases, and when public incomes are democratically invested in great public services for the benefit of the people, in hospitals, schools, asylums, aqueducts, roads, etc. Such are the fruits of our tax system, and not the greedy exploitation of a conquered or enslaved country.

Naturally, Cuba is not a colony nor an enslaved country, but an independent and sovereign nation, which expends her incomes in her benefit, through an administration which is neither a public calamity nor a parasite plague, but is an organization perfectly identified with the social mass, of which it is an integral part, poorly remunerated in many cases, but with sufficient probity to maintain her public incomes at a high yielding, such as the custom revenues and all other incomes. It would not be fair criticism to compare us with the English colonists, who in defense of a constitutional right, and not against a rapacity that did not exist, first protested and afterwards revolted against the foundation of public rights which George III and Lord North favored in the [eighteenth] century. We breathe the ambient air of American democracy of the twentieth century.

What made the stamp tax and stamped paper specially hateful during the old régime, was its exaggeration; it is enough to say that poor people's paper was worth 10 cents; that used in making petitions—and it was required to apply in writing for everything—cost $37\frac{1}{2}$ cents; those for judicial proceedings, without limited quantity, \$1.10; for important lawsuits it was worth \$1.80 per sheet, and for contracts the stamped paper ranged up to \$50.

In many cases rentals were collected by lessees, and the states severely persecuted the taxpayers with vengeance, who, notwithstanding this fact, did not receive in exchange for their sacrifice the services that our public administration freely renders to all social classes.

The minimum rates fixed by the decree of May 26 and the nature of the acts affected by the tax, show that the tax fixed is not violent nor seditious; it is just a road leading to new taxes, derived from the necessity of giving some variety of form to the incomes and to prepare the era of social wealth so characteristic in our times. To only depend upon the custom revenues to meet public expenses is to fluctuate within the moral story of the "seven fat and beautiful kine and the ill-favored and lean kine," and to oppress the popular classes of our society under the pressure of a system that draws out of the people the principal public incomes. Cuba is a very progressive country of Latin America in social structure; no country of the Iberian race in both hemispheres has such a strong and progressive sugar industry as ours, and there are not many countries ahead of us in the industry of cigars, besides many other small industries, rural and urban, agricultural and manufacturing, as cattle raising, cultivation of tobacco and others. In order not to fall back we have to raise the intellectual level of our people, extend our land communications, construct lighthouses, illuminate our coasts, in short, we have to maintain our national standard at a height exacted by our geographical situation in one of the greatest world crossways of our contemporary civilization. Let no one say of Cuba, after two or three generations of independent life, what criticizers say of old Spanish-America, that after a century of independence still lives after the old colonial style, and that those republics are still countries of masters and slaves and not of free men.

The small impost upon memo-books where purchases on credit are noted, has deserved special criticism, same being defended by the administration not on account of its yielding, but for its social tendency. Ordinary purchases on credit of daily consumption goods, instead of exalting, depress the labor class as well as the middle class in its relations with the wealthy class. All the reforms and improvements which have raised the moral level of the urban and rural inhabitants of the new and the old world, are due to the use of money and to the association based upon cash payments. The European cooperative system, specially the English, has had for basis the cheapening of goods of daily use in life and of raw materials for manufacturing industries, by having the labor associations pay in cash. The syndical agricultural credit, the credit institutions founded in Europe to support small industries and small rural property, have no other object.

The purchases on credit maintain in our farms the "truck system," namely, payments are made with merchandise by means of chips, vouchers, memo-books, etc., which serve to receive credit in special financial institutions; in the cities the workman does not form an economical entity in the technical meaning of the word; he lives on the purchases, which take up every day a few more lines in his credit book and closes upon settlement on pay day, when he sees the earned dollars pass before his eyes without getting into his pockets, leaving always a debit balance which chains his liberty and deprives his family from the sense of provision and saving.

This is why currency accumulates in the banks, which in all civilized nations pass from hand to hand to support the circulation of domestic provisions and of small transactions; this diminishes public interests and increases the liens of the social mass, as the Public Treasury is deprived of the legal resources to which it is entitled from the profits of the minting of silver and fractional coins. It has not been possible in Cuba to put in circulation the amount of money called for in the monetary law, because the commercial customs eliminate small divisions. Thus, in every article, no matter how insignificant it may be, there are always two profits: one, that of the usurer, which depends upon the money advanced by the merchant to supply himself with merchandise; the other of a mercantile nature, derived from the commercial profits of supplying the consumer, with the further advantage that said predomination on the part of the intermediary gives the latter the selection of the merchandise and the fixing of prices. The new tax is a way of knowing this fact in its full extent, and a trial to endeavor to remedy the same, thus making more solid our monetary system.

The remarks given are sufficient to show the deficiencies of the bill. In fact, they depend upon the nature of things, as stated in my decree of May 26, namely: "The solution of such complex problems as the budgets is difficult for the deliberating bodies, such as those that constitute the national legislative representation."

Previous to my message of April 18 I had the honor to state that in normal times it would have been plausible to submit to the honorable Congress a complete technical and practical study of our tax system, of our social structure, and of our political constitution, in order that the legislative power, with its culture and deliberate study would select the just and most convenient solutions, so that the tax system shall be based upon a solid foundation in relation to our needs and the public welfare. But at the present time, with just the necessary delay, we hardly can submit a list of taxes that might apportion means and resources, because a prompt and effective measure is required.

Let it be said openly, that it is a serious error to regulate and limit the powers of the Executive, as it is done in the bill, at a time when free action is most necessary, a fact that is acknowledged in the joint resolution. The fixing of taxes without any sanction and in erroneous terms would bring results contrary to those sought.

This is why I make those objections, insisting in that neither the whole bill nor any of its details satisfy public needs, and I therefore recommend that the joint resolution of April 7, with the use I have made thereof, be left in force, and that the honorable Congress may consider more calmly the pressing and urgent measures required.

Presidential Palace, Habana, July 19, 1917.

M. G. MENOCAL

File No. 837.51/253

The Acting Secretary of State to the Minister in Cuba (Gonzales)

[Telegram]

WASHINGTON, August 2, 1917, 4 p. m.

Your July 28, 11 a. m. What information referred to in Department's July 13, noon [July 19, 4 p. m.] have you received from Cuban Government as to loan?

POLK

File No. 837.51/256

The Minister in Cuba (Gonzales) to the Secretary of State

[Telegram]

HABANA, August 8, 1917, 2 p. m.

Your August 2, 4 p. m. Doctor Patterson, Subsecretary of State for Cuba, left this morning for Washington carrying, I understand, all the data called for by the Department.

GONZALES

File No. 837.51/257

The Minister in Cuba (Gonzales) to the Secretary of State

No. 488

HABANA, August 8, 1917.

SIR: I have the honor to enclose herewith a translation of the law recently passed by the Cuban Congress and approved by the President, authorizing a \$30,000,000 loan and providing for revenue for interest on and retirement of the bonds. This act was passed in place of the one vetoed by the President.

The President states, as I have already notified the Department by cable, that the taxation features are unsatisfactory in some particulars, notably as to the heavy tax on iron and copper ores. These taxes he will suspend or greatly reduce, by decree, until Congress meets, when the law will be amended.

I have [etc.]

WILLIAM E. GONZALES

[Enclosure—Translation]

Extract from the Official Gazette of the Republic of Cuba, Special Edition No. 37, Wednesday, August 1, 1917

Mario G. Menocal, President of the Republic of Cuba, makes known that Congress has voted, and I have sanctioned the following

LAW

ARTICLE I. The National Executive is authorized to issue Treasury bonds up to the sum of \$30,000,000 current gold, of the standard weight and fineness as set forth in the National monetary law, which will bear, as maximum rate, 6 per cent annual interest, payable semiannually, when due.

The issue may be made in three parts, in the remaining fiscal year and in the following years of 1918 to 1919 and 1919 to 1920, although it may be done before and at one time if the needs of the Treasury require it and the condition of public affairs recommend doing so.

The debt will be amortized in 12 years from January 1, 1918, but amortization will start January 1, 1920 by means of semiannual drawings, which will be held with the required anticipation; being well understood that the bonds will be consolidated and converted into certificates of the National debt when peace is signed or before if the circumstances so permit—in the opinion of the Government of the Republic—reimbursing the principal and paying interest to creditors in the form stipulated or that may be stipulated when conversion is made.

Said bonds may be given in guarantee or in payment of any obligation contracted by the Treasury on account of the wars; they may be sold or hypothecated in order to collect funds to meet payments or to purchase or import standard gold currency, so as to maintain the credit and gold standard of our monetary system. The bonds may also be exchanged for the remaining outstanding bonds of series "A" and "B," which were issued on January 1, 1915, in accordance with the financial defense law and are known as "bonds of the 5,000,000-dollar issue." Other details and circumstances in connection with the issue will be arranged by the Government in due time.

ARTICLE II. For the payment of interest and principal when due in connection with the Treasury bonds above authorized, and to supply the budget with the funds required on account of the present state of war, as well as for the needs of the Treasury, the following imposts are created:

First: A stamp tax, which will be paid with stamps, it being understood that the engraving and stamping will be exclusively for the account of the State, which will sell them just the same as is now done with the stamps known as loan tax (*impuesto del empréstito*). While these stamps are being made, postage stamps and stamps from taxes no longer in force or remaining in stock, may be used, same to be fitted for said purpose by the Secretary of Finance.

The following articles will pay tax in the manner and amount indicated:

(a) Stock Exchange transactions and contracts of value, public securities originating in Cuba, at the rate of 20 cents for each transaction exceeding \$500 nominal value and not exceeding \$1,000, and 30 cents additional for every \$1,000 and fraction thereof above the first \$1,000, all nominal value.

Those securities not included in the above paragraph can not be listed on the Stock Exchange.

(b) The copies of deeds executed before notaries public or of documents kept in their archives in connection with some act or money, will bear a stamp in accordance with the following rates: Deeds and documents not exceeding \$500, 5 cents; exceeding \$500 up to \$1,000, 10 cents; exceeding \$1,000 up to \$5,000, 50 cents; exceeding \$5,000 up to \$10,000, \$1, and from \$10,000 up, \$5. Each authorized copy should bear a stamp as indicated.

(c) Private receipts exceeding \$25 up to \$50, 5 cents; from \$50 to \$100, 10 cents; from \$100 to \$500, 20 cents; and exceeding \$500, 1 dollar.

(d) Commercial orders and invoices and all acts performed within the national territory on account of contracts and transactions will bear a 1-cent stamp when amounting from \$1 to \$10; exceeding \$10 up to \$40, a 2-cent stamp; and an additional 2-cent stamp for every \$40 or the value thereof up to \$400; from \$400 to \$800, 30 cents; from \$800 to \$1,200, 50 cents; and from \$1,200 up, 1 dollar.

Transactions of a mercantile nature, whatever may be the amount involved, have to be made in writing, signed by the purchaser or seller, as the case may be.

(e) All policies or documents including bonding contracts by surety companies to guarantee all kinds of services, obligations, or responsibilities between private parties before the administration or in judicial proceedings; all kinds of insurance policies, excepting life insurance, will bear a 2-cent stamp for every \$100 or fraction, of the amount involved. Premium receipts will bear stamps as mentioned under letter (c), according to their amount.

(f) Each page of original deeds to be filed by notaries public, and of the books of registries of property, of mercantile registries and of registries of ships or marine property, will bear a 5-cent stamp.

(g) Current account books of banks and bankers will bear a stamp at the rate of 1 cent for each page.

Certificates or deposit books for deposits bearing interest with banks or savings institutions, will bear a 2-cent stamp for every \$100 above \$200; exceeding \$500 up to \$1,000, 5 cents; and from \$1,000 up, or fraction thereof, 10 cents each \$1,000 or fraction.

(h) Bills of exchange, drafts, checks payable to order, promissory notes, documents of exchange in general, and all kinds of vouchers not hereinbefore mentioned, will bear stamps as stated under letter (c), according to the amount involved.

(i) Diplomas issued by the National University will bear a \$10 stamp, and all other titles or qualification certificates and diplomas, a 5-dollar stamp.

(j) The records of contracts and bids of the State, the Province or the City, will bear a 20-cent stamp on each leaf. The stamps will be affixed by the contractors or grantees upon approval and closing of contract. The sheets or debit slips for public works done will also bear a 10-cent stamp each, without which payment will not be ordered.

(k) All petitions, statements, or memoranda requesting certificates, and every certificate issued by public offices of the State, the Province and the City, besides the imposts fixed by other laws, will bear a 10-cent stamp. Said documents will only be issued when applied for in writing.

(l) The certificates issued by the registrars of property, mercantile and marine, will bear a 20-cent stamp.

(m) Hunting licenses will bear a 5-dollar stamp; licenses for carrying arms in towns, \$10; in the country, \$3; for carrying arms both inside and outside of town, \$15. Licenses for carrying arms inside and outside of towns will not be issued separately to the same party. Those having a license of the first- and second-class and desire a third-class license, the two first licenses will be canceled, deducting in his favor the amount and tax paid before. Free licenses are not allowed. Those licenses that may be issued according to special laws are excepted.

(n) First-class tickets for foreign countries sold by agents or representatives of steamship companies, will bear a stamp equivalent to 5 per cent of their price, and second-class tickets, a stamp equivalent to 2 per cent of their price. Third-class tickets are excepted from this tax.

(ñ) The licenses issued every year by the City for the circulation of automobiles for hire [of] from 1 to 4 passengers, will bear a 1-dollar stamp; the licenses for automobiles known as "automobiles *de luxe* for hire" of from 4 to 7 passengers, a 2-dollar stamp; the licenses for private automobiles, a 3-dollar stamp, also the licenses for private omnibuses and auto trucks. The licenses or authorization for *carromates* (large carts for transportation of products from the country into the city and vice versa) will bear a 3-dollar stamp, and those for two-wheel carts a 5-dollar stamp.

The licenses for the circulation of carts the wheels of which on turning cover only 6 inches, will pay \$5, and those exceeding that size will pay \$1.

Second: A tax is also fixed on sugar, which will be divided into ordinary and special. The first or ordinary tax will be 10 cents on each bag of centrifugal juice sugar, which will be paid by the owners or managers for the account of the sugar mill at the sugarhouse once the product is packed. The second or special tax will consist in the ordinary 10-cent tax per bag and an additional 10-cent tax because of the special profits on account of the war, which will be exacted as long as said kind of sugar is listed in Habana and sold at the rate of 3 cents per pound or more; both taxes to take effect on November 1 of the present year 1917.

The 48 by 29-inch bag, weighing 325 pounds or 13 arrobas (an arroba equals 25 pounds) is taken as a base for fixing the tax.

Third: The impost upon companies and corporations, to which Military Order No. 463 of 1900 refers, will include all the associations of common rights, industrial or mercantile, organized or that may be organized in Cuba or outside of Cuba, for the cultivation and exportation of sugar and tobacco, the tax being fixed upon the profits of both large industries. The amounts paid on account of the 1904 loan tax and for the exportation of sugar will be taken into account and included among the operating and maintenance expenses as the cost of production.

The exemption of this duty in regard to mines is done away with, and mining properties are obliged to pay a tax equal to 6 per cent of their profits and a 2-dollar tax for each ton of copper exported and \$1 for each ton of iron.

Banks and bankers in general, not mentioned in order No. 463, will pay 6 per cent of their profits.

The accountability of every company is to be kept in standard currency.

The impost upon insurance companies is raised to 4½ per cent, including the mutual companies and the agents' commission.

Fourth: A production tax of $\frac{1}{4}$ cent for each gallon of molasses.

Fifth: A tax of 50 cents for every 100 pounds of cattle rawhide not intended for use in tanneries and manufactures of all kinds of leather goods in the Republic.

Sixth: A tax of \$1 for every quintal (100 pounds) of explosive matter which, not belonging to the Government, may be deposited in its magazines. All explosives imported into the Republic have to be stored in said magazines of the State, which will deliver same for use as needed. When the explosives are manufactured in this country, upon transporting same to places other than that in which the factory is situated, they will have to be deposited in the magazines of the State closest to the place where they are to be utilized, in order that it may be easier to see what they are going to be used for.

Seventh: The articles comprised under paragraphs 25 and 26 of the customs tariff in force will pay, as tax, an additional duty equal to that declared in each case.

Eighth: The articles comprised under paragraphs 30 and 297 of the customs tariff in force, will pay, as tax, an additional duty of 25 per cent upon the duty declared in each case.

ARTICLE III. The above-mentioned imposts will be effective from September 1 next, or when possible, or as soon as possible during the next fiscal year, save those that have a fixed date for their execution. The Finance Department will dictate the necessary instructions and the corresponding rules and regulations will be submitted.

ARTICLE IV. All documents subject to imposts that may not have the above-mentioned stamps affixed, will be of no value. The infractor, besides being fined \$10 the first time and \$100 the second time, will have to pay twice the amount of tax unpaid.

ARTICLE V. The Executive is authorized to organize the required services and open the necessary credits for the execution of the precepts of this law, which will take effect upon its publication in the *Official Gazette* of the Republic, canceling any other legal order that may be contrary to its execution.

Therefore I order that said law be complied with and fully executed.

Given at the farm "El Chico", Marianao, on the 31st day of July 1917.

M. G. MENOCAL

LEOPOLDO CANCIO

Secretary of Finance

File No. 887.51/279a

The Secretary of State to the Secretary of the Treasury (McAdoo)

WASHINGTON, August 13, 1917.

MY DEAR MR. SECRETARY: Doctor Patterson, Assistant Secretary of State of Cuba, and the Collector of the Port of Habana, have arrived in Washington on a financial mission. The Cuban Minister brought them to call upon me on Friday and expressed a desire to call upon you in order to discuss with you matters of finance in connection with Cuba's economic needs.

The Latin American Division of this Department has, I understand, arranged for an appointment with you for these gentlemen through your private secretary, and before you see them I desire to put you in possession of certain information which I have received in regard to the financial and political situation in Cuba:

I

In view of the so-called Platt amendment to the treaty of 1903 with Cuba, which reads as follows:

ARTICLE 2. The Government of Cuba shall not assume or contract any public debt to pay the interest upon which, and to make reasonable sinking fund provision for the ultimate discharge of which, the ordinary revenues of the Island of Cuba, after defraying current expenses of the Government, shall be inadequate,

the Department of State has, in the past, been consulted by the Cuban Government before any debt was contracted by it.

On July 13 the Minister at Habana cabled the Department that the Cuban Congress voted authorization for a \$30,000,000 loan. As the Cuban Government had not informed this Government as to the proposed loan, in accordance with its practice, the Department cabled the Minister at Habana on July 19 to remind the Government of Cuba of the treaty provisions in regard to loans and its practice of submitting to this Government full data as to existing and proposed new indebtedness and as to revenues applicable to payment of principal and interest.

On July 24 the Minister cabled the Department that the President had vetoed the bill authorizing the loan on account of certain provisions which were not to his liking, and on the 28th a cable was received stating the Cuban Senate had passed the House bill authorizing the \$30,000,000 loan, with an accompanying tax measure providing for interest and sinking fund, the bill to carry tax of one-quarter of a cent a gallon on molasses produced in Cuba.

On August 2, inasmuch as the Department was not in receipt of any information from the Cuban Government in regard to the loan, a cable was sent to the Minister asking him if he had received any statement from the Government relative to the matter. The Minister replied to this cable on August 8, stating that the above-mentioned Doctor Patterson left Cuba for Washington carrying all the data called for by the Department.

Neither the Cuban Minister nor the Assistant Secretary of State of Cuba, in their conversation with me, took up the details of the loan,

but stated that they desired to speak to you about financial matters, as they were under the impression that the Treasury Department was kindly disposed towards arranging for a war loan to Cuba.

II

In connection with the matter of the loan, it is necessary to take into consideration the present political situation in Cuba.

The revolution which occurred in February of this year, and which may be considered to be at an end as an organized movement, although certain unrest still prevails in the eastern end of Cuba, brought in its train great destruction of property of foreigners and of Cubans and for which large claims will be presented to the Cuban Government. The entrance of Cuba into the war as an ally of the United States has occasioned her a considerable outlay of money for equipment of troops and repair and refitting of ships. For both of these reasons it would seem that Cuba would be in need of much greater funds than she now possesses.

Nevertheless, the financial and the political situations are so closely interwoven that I feel that no step should be taken in the present situation without the careful consideration and cooperation of the Treasury Department and the State Department, both on account of the provisions of the Platt amendment and the political questions involved.

Two pertinent political questions are the settlement of the Cuban Ports Company matter and the payment of certain part of the claims of the Cuba Railroad Company against the Government for property destroyed in the revolution, in order to enable this company to put its road in condition to haul the sugar crop which is of such great importance to the United States and to the Entente Allies.

The matter of the Cuban Ports Company, a corporation in which both American and British capital is interested, has been a most vexatious one for several years and a few weeks ago the Cuban Congress authorized the President of Cuba to make a settlement of the question, the President having expressed his desire on various occasions to make an equitable settlement of this matter if Congress would authorize him to do so.

It is felt that it would be particularly useful at this time if a settlement could be made of the Ports question, inasmuch as Cuba, Great Britain, and the United States are now all fighting side by side against the German Government, but this settlement may not be forthcoming unless certain pressure is brought to bear on the President of Cuba, possibly through the approval for a loan, in view of the fact that he has decided not to make a settlement himself but has appointed a commission to decide the case, certain members of which are openly known to be very hostile to the Ports Company.

In order that the Cuba Railroad may be in a position to haul the sugar crop it may also be necessary to make an arrangement with the Cuban Government before the loan is authorized for a monthly payment to the railroad of part of its claims. A payment of \$300,000 per month for four months has been suggested by the company.

In view of the foregoing, I wish to suggest that a conference be held between the two Departments, after your meeting with Doctor Patterson, in order that the whole situation may be fully discussed.

I am [etc.]

ROBERT LANSING

File No. 837.51/262

The Secretary of the Treasury (McAdoo) to the Secretary of State

WASHINGTON, August 22, 1917.

DEAR MR. SECRETARY: The Cuban Government has applied for a loan aggregating \$15,000,000. I am advised by the Cuban Minister and his colleagues of the special commission who presented the matter to me a few days ago that they have sent to you duplicates of the documents in support of their application which they have lodged with me.

I am disposed to make this loan. I think we ought to do it, but before taking action I should be very happy if you would submit to me your views in this connection. As it is necessary to dispose of it quickly, I beg that you will give it your prompt consideration.

Cordially yours,

W. G. McADOO

The Secretary of State to the Secretary of the Treasury (McAdoo)

WASHINGTON, August 23, 1917.

DEAR MR. SECRETARY: I am in receipt of your letter of August 22 and note that you are disposed to loan the Cuban Government \$15,000,000, and you request my views in this connection.

I approve the making of such a loan, provided data have been received by our Government showing compliance with Article 2 of our treaty with Cuba, relative to the creation by Cuba of public debt; namely showing that the ordinary revenues of Cuba, after defraying the current expenses of the Government, are adequate to pay interest thereon and to make reasonable sinking-fund provisions for the ultimate discharge thereof. No such data have as yet been received by this Department.

I also feel that before granting the loan we should receive definite assurances from Cuba that it will carry out the arrangements now under discussion, contemplating the payment by Cuba to the Cuba Railroad, of certain monthly sums, so that this railroad may repair the damage caused by the recent revolution and thus permit of the economic resources of Cuba being adequately availed of in the present war.

This Department may also desire, in connection with the granting of such a loan, to express to the President of Cuba its confidence that he will assure a prompt and equitable settlement of the so-called "Ports claim."

I suggest a conference between our Departments before any final decision is communicated to the Cuban Financial Commission.

Cordially yours,

ROBERT LANSING

File No. 837.51/264

The Acting Secretary of the Treasury (Crosby) to the Secretary of State

WASHINGTON, August 27, 1917.

SIR: I have the honor to acknowledge receipt of your letter of August 23, 1917, referring to the matter of a loan to the Cuban Government, and in answer thereto I beg to state that while the making of a loan of \$15,000,000 for military supplies desired by Cuba appears to me to be desirable, I have thought it prudent to ask for advice concerning the materials for which the money would be expended from the War Department. I am making inquiry to the Secretary of War to that effect to-day.

Concerning the conditions which in your judgment should be attached to this loan, I note that they are not related directly to matters connected with the conduct of the war, and it would perhaps be wise for me, acting under the limitations of the Act of Congress approved April 24, 1917, to delay final action in respect to the military loan until you may yourself have obtained such stipulations as you desire on the subjects mentioned in your letter.

While you are thus dealing with the subject, I will be able to obtain the information above indicated from the Secretary of War, and also to confer directly with the Cuban Minister as to a number of details in respect to the form of obligation which his Government has to offer, as it has thus far appeared to me no loan can be made under the terms of the Act of Congress of April 24, 1917, by taking up bonds such as the Cuban Government has recently authorized. The maturities of foreign obligations must be the same as those which our own bonds carry. The Cuban bonds are fixed at 12 years while ours are fifteen-thirties. The legislation which I am hoping to obtain at an early date will doubtless make the situation more easily treated, or, perhaps, on the other hand, the Cuban legislation may be modified if our conditions can not otherwise be met.

In substance, therefore, I understand that if you so desire, friendly negotiations will at once be undertaken concerning the Cuban loan for military purposes, and you will in the meanwhile independently treat with the Minister, going over the political considerations that are mentioned.

Cordially yours,

OSCAR T. CROSBY

File No. 837.51/279

Memorandum of the Division of Latin American Affairs of the Department of State

WASHINGTON, August 29, 1917.

The Cuban Minister having called on Mr. Phillips in regard to the urgency of the United States making the proposed loan to Cuba, I, at Mr. Phillips' suggestion, requested the Cuban Minister and Mr. Patterson to call at the Department this afternoon.

They did so, and I first stated to them that the Treasury Department, without having reached any definite decision, had indicated that it was inclined to view favorably a loan to Cuba of \$15,000,000 provided the War and Navy Departments were satisfied as to the manner in which this sum should be expended and provided certain technical requirements, as to the maturity and interest rate of the obligations of the Cuban Government could be satisfactorily adjusted. I then stated that the Department of State was disposed to approve the loan provided it was satisfied as to two matters:

The first of these was that the Department felt that it had not received sufficient data to permit it to determine whether the provisions of the Platt amendment and of the Cuban Constitution, relative to the creation of public debt, were being complied with. The Minister stated that further financial data had been filed with the Treasury Department and he stated that he believed that this, with what had been filed with the State Department, would satisfy that Department that the proposed new indebtedness was within the terms of the Platt amendment. The Minister and Mr. Patterson added, however, that if the Department of State, after examination of the data above referred to, was not satisfied, then they would promptly furnish all further information which the Department of State might desire. They expressed, however, the strong hope that the compilation of such further information would not require the making of the loan to be deferred.

I stated that the other matter, as to which the Department was concerned, related to the Cuba Railway. I said that it was felt that Cuba's greatest aid to the United States in the prosecution of the war would be economic rather than military, and that it was of the utmost importance that the economic resources of Cuba in the way of sugar, manganese, etc., be made readily available to the United States and those cooperating with it in the prosecution of the war. This being the case, I stated that the Department would hesitate to approve a loan for war purposes unless as part of the same arrangement provision were made for the restoration of the Cuba Railway which had been so damaged in the recent revolution that it was not now adequate to transport Cuba's products. The Minister called my attention to the fact that Cuba fully recognized the importance of the Cuba Railway as evidenced by the fact that they were now advancing to the railway company \$1,000,000 to permit it to inaugurate much needed repairs. I stated that the railway company did not feel that it could accept further moneys as a loan, as this would be mortgaging its future income. What they required was an outright payment by the Cuban Government on account of damage suffered during the revolution. I further stated that it was of the utmost importance that such a payment be made promptly on account of the imminence of the new sugar crop and that this necessity for prompt payment would probably require some sum to be paid tentatively subject to a future determination of the precise amount of the damage caused by the revolution. I stated that the Cuba Railway had indicated to the Department that it had suffered loss aggregating \$2,870,000, and Mr. Patterson suggested that \$2,500,000 would be a sum which could tentatively be agreed upon and paid by the Cuban Government. The Minister stated that it

would probably be necessary either to make such payment in bonds themselves or else that the United States should buy the additional \$2,500,000 of bonds. I stated that I was of the opinion that the railway company would accept the bonds themselves.

The Minister stated that he thought that this matter of the railway should be made the subject of an independent recommendation by the Department rather than that it should be made an explicit condition to the granting of the loan. I stated that it was a matter of indifference to the Department as to what form the arrangement took, but that I felt that it was essential that before the loan was actually made, assurances should be received acceptable to the Department of State that the railway matter would be properly taken care of.

I went on to say that this Government would probably desire some supervision of the manner in which the payment to the railway should be applied so as to be assured that the expenditure would be made for improving the railway for the benefit of the entire island and not for the selfish interests of the railway or of certain favored companies. The Minister fully agreed with the necessity of some such supervision, but suggested that it might be exercised by the Cuban Government or by representatives of both Governments. I stated that the United States would probably desire to be satisfied independently as to the purposes for which the payment would be expended as this would be in line with its general policy, in the case of loans to Allied Governments, of assuring itself as to the precise purposes to which the proceeds of the loan would be applied.

The Minister and Mr. Patterson stated their confidence that the two matters above referred to would be adjusted to the satisfaction of the Department and stated that they would at once cable their Government for authority to deal with the railway situation which was at present beyond the scope of their authority.

I stated that Mr. Crosby had indicated to me that there might be technical difficulties in the way of the loan since their proposed bonds had a maturity different from that of the United States bond. I suggested that it might be possible to obviate this difficulty by the Cuban Government giving a warrant of indebtedness of the same maturity as the United States bond and then depositing the Cuban bonds as security for the payment of this warrant. The Minister and Mr. Patterson welcomed this suggestion and expressed their desire to discuss it at once with the Treasury Department. I, accordingly, arranged for them an appointment with Mr. Crosby for 11 a. m. to-morrow.

JOHN FOSTER DULLES
[*Special Counsel*]

File No. 837.51/266

The Minister in Cuba (Gonzales) to the Secretary of State

[Telegram]

HABANA, September 1, 1917, 11 a. m.

While having an audience with the President yesterday he showed me telegraphic communications with Doctor Patterson, now in

Washington, concerning loan. He appeared annoyed and hurt at reported terms of Department for granting loan. He stated that as I knew he proposed asking Congress to authorize payment for losses in revolution under certain conditions after investigation and that he had advanced Cuba Railroad one million dollars "and might advance another and yet another," but to now pay any amount out of hand as damages for losses would lay precedent for ruin of country in damages for recent, old, and future revolutions, moreover that the railroads as such, not including associated cane-growing interests, could not show total loss of property to be near two millions. He also thought Cuban engineers sufficiently capable and honest to see that advances made to railroads by Cuba were properly applied.

GONZALES

FILE NO. 837.51/267

The Secretary of War (Baker) to the Secretary of State

WASHINGTON, September 4, 1917.

SIR: I beg to acknowledge yours of August 31, 1917,¹ in which you request that one of the financial experts of the Insular Bureau of this Department be directed to examine certain financial data submitted by the Cuban Minister relating to a proposed Cuban loan.

I return herewith the enclosures received with your letter with a memorandum from the Chief of the Bureau of Insular Affairs on the proposed loan.

Very respectfully,

NEWTON D. BAKER

[Enclosure—Memorandum]

The Chief of the Bureau of Insular Affairs (McIntyre) to the Secretary of War (Baker)

WASHINGTON, September 4, 1917.

The Cuban Government by a law of July 31, 1917, provides for the issue of not to exceed \$30,000,000 gold bonds bearing interest not to exceed 6 per centum per annum, payable semiannually. The bonds are payable by drawing; and are to run for not to exceed 12 years. Article 2 of the law creates certain taxes for the payment of the interest and principal of the bonds authorized, as well as to increase the revenue made necessary by the state of war and the requirements of the Treasury.

The Department of State requests an examination of the data submitted by the Cuban Minister relating to this law in order that the Department may be advised whether the proposed loan may be properly authorized as coming within the terms of Article 2 of the treaty of 1903 between Cuba and the United States, which provides that Cuba shall not—

contract any public debt to pay the interest upon which, and to make reasonable sinking fund provision for the ultimate discharge of which the ordinary revenues of the Island of Cuba, after defraying the current expenses of the Government, shall be inadequate.

It is assumed that the revenues provided by the loan law are to be considered ordinary revenues of the island of Cuba. In some of the forms of this bill, prior to its enactment into law, it was provided that the taxes should cease with the amortization of the loan. This provision does not appear in the law as submitted.

¹ Not printed.

Four million dollars of assured revenue, in addition to that necessary to defray the current expenses of the Government, would take care of the proposed loan. The ordinary revenues under laws in effect prior to the passage of the law under consideration were not fully adequate to defray current expenses of the Government, as shown by the fact that there was a loan necessary in 1914, and another loan necessary in 1915.

It is proposed to increase the ordinary revenues from certain taxes provided in the law. These taxes are estimated by the Department of Finance to produce \$8,660,000 per annum. The amount estimated is more than twice the amount necessary to care for the loan. Unfortunately, however, the loan is to be used in large part as a basis for increasing the Army and Navy. This naturally increases the future current expenses of the Government.

A definite reply to the inquiry of the Department of State requires the following data: What will be the current expenses of the Government?

While the budget for 1917-18 is submitted, no estimate is submitted of the increased expenditures for future years; and it should be understood that the budget for 1917-18 was prepared prior to the recent troubles in Cuba and the entry of Cuba into the present war. This means that one essential factor necessary in determining whether the increased ordinary revenues after defraying the current expenses of the Government will be adequate to care for the loan is missing. It is reasonable, however, to believe that if, as is estimated, the new taxes will produce \$8,660,000 additional revenues, the loan will be cared for by the revenues after defraying the current expenses of the Government.

What will be the ordinary revenues, as increased by the new taxes?

Data is not furnished which would enable one carefully to estimate the revenues that will be produced by the new taxes, as will be plain by examining its items. The largest item is that from the sugar tax. Article 2, Section 2. The Department of Finance estimates the product of this tax to be the following:

20,000,000 bags at 20 cents each, \$4,000,000.

The actual product of the tax, had it been in force during the fiscal year 1914-15, would have been:

18,203,922 bags at 10 cents each, \$1,820,392.20.

The production for that year exceeded previous records. Certainly the production has been stimulated by war prices, but it may well fall to that record in any year. Furthermore, the tax of 20 cents per bag is contingent on a Habana price of 4.25 cents per pound. It is conceivable, and should be reckoned with, that the price may within two years of the end of the war fall below that. In other words, the sugar tax should be conservatively estimated to produce \$2,000,000 per annum and no more.

This item of the new tax is not a heavy one. Cuban sugar is given in the United States market a tariff preferential of 81 cents per bag. The maximum tax imposed under that law is 20 cents per bag, and when sugar is below 3 cents per pound in Habana it is 10 cents per bag.

The next important item is that of Article 2, third section, estimated to produce \$3,000,000 per annum. It modifies General Order No. 463 of 1900, and apparently extends to companies engaged in planting and working sugar and tobacco the tax of 8 per centum of their net profits imposed by that order on certain banks and stock companies. It repeals the exemption of that order in favor of mining companies, and taxes such companies 6 per centum of their profits. In addition, it imposes an export tax of \$1 per ton on iron. If this means \$1 per ton on iron ore, practically the only form in which iron is exported, it is an unusually heavy tax, being an export tax of approximately 30 per centum *ad valorem*.

The tax on insurance companies is raised from 2½ per cent to 4½ per cent on premiums collected, and the tax is extended to mutual companies and commissions to agents. The tax laid under this section should produce more than the \$3,000,000 estimated. Presumably \$750,000 of this will be derived from the export tax on iron ore, and it is probable that this tax may injure the mining industry in Cuba.

The Department of Finance estimates that the 5th section of Article 2, being a tax of 50 cents per hundred pounds of hides exported, will produce a revenue of \$100,000 a year. This is based on an estimated export of 20,000,000 pounds of hides per annum. A conservative estimate should not be based on more than 18,000,000 pounds of hides.

It is believed that the estimate submitted by the Department of Finance is a very liberal estimate, and it is, therefore, thought that the large factor of safety apparently resulting is none too great.

Without further analysis it is clear that the revenue product of the new taxes will vary widely from year to year and that while adequate to care for this loan, the surplus after so doing available to supplement the ordinary revenues is problematic.

In conclusion, if the taxes imposed under the loan law of July 31, 1917, are considered ordinary revenues of the island of Cuba then the loan provided that law will not create a public debt "to pay the interest upon which, and to make reasonable sinking fund provision for the ultimate discharge of which the ordinary revenues of the island of Cuba, after defraying the current expenses of the Government, shall be inadequate"; provided the current expenditures of the Government are not increased beyond the amount provided in the budget for the year 1917-18.

The proviso is the important consideration; and it is believed that the Government of Cuba should be cautioned not to increase, purely for military and naval purposes, unduly its current expenses. The loan creates no difficulties, accompanied as it is by a liberal scheme of taxation, if the current expenditures are not to be unduly increased. The part of wisdom on the part of Cuba would be to limit the loan for the present to the amount necessary to pay the extraordinary expenses resulting from the recent disorders in Cuba, and the debts already contracted for war purposes, and not materially to increase its military establishment bringing with it increased expenditures for future years. One or two years' application of the new taxes will be required to determine the amount of revenues to be derived therefrom.

FRANK MCINTYRE

File No. 837.51/269

The Assistant Secretary of the Treasury (Crosby) to the Secretary of State

WASHINGTON, September 5, 1917.

MY DEAR MR. SECRETARY: The Act of Congress approved April 24, 1917, provides that loans made under its authority by the Secretary of the Treasury shall be to "governments engaged in war, etc." In connection with this provision and with the application of the Cuban Government for a loan, I have the honor to request an expression of your view as to whether a mere declaration of war by the Cuban Government is in fact such an act as will permit the Secretary of the Treasury to assume that that Government is engaged in war.

Cordially yours,

OSCAR T. CROSBY

File No. 837.51/266

The Secretary of State to the Minister in Cuba (Gonzales)

[Telegram]

WASHINGTON, September 8, 1917, 2 p. m.

Your September 1, 11 a. m. You may inform President Menocal that the theory upon which a loan from this Government to the Government of Cuba may be made at the present time is to permit Cuba to cooperate more effectively in the prosecution of the war against the German Empire; that such cooperation will unquestionably be as important along economic as along strictly military lines, and that therefore in making a loan this Government earnestly desires to see that such economic cooperation is adequately provided

for. This Government is reliably informed that the next sugar crop upon which this Government and other nations at war with Germany so much depend can not be fully availed of unless transportation facilities which were greatly impaired during the recent revolution are improved. It is thus this Government's view that provision should be made out of any loan from this Government to Cuba, or, if the Cuban Government prefers, out of bonds of the recently authorized issue which may be available, to assure such railroad reconstruction as will permit of Cuba's economic resources being rendered available. Any such measures, if to be effective, must be taken very promptly on account of the imminence of the next sugar crop.

It is not necessary for present purposes that payment should be made to any railroad company in such a way as to seem to establish general liability for revolutionary damages; on the contrary, in the opinion of this Department such payments would have the character of an extraordinary war measure; and, so far as the beneficiary is concerned, would be an act of grace.

The Department has not expressed itself in respect of the precise amount which should properly be paid to any railroad company or companies of Cuba to accomplish the result above referred to.

You will also point out that the attitude of this Government, as above expressed, does not result from any special representations made by the Cuba Railroad Company or from any special solicitude for that railroad company as such. The Department has, however, been impressed by many reports which it has received from independent sources relative to the great importance, as a war measure, of prompt assistance being given by the Cuban Government to permit of rehabilitating the Cuba Railroad by repairing the damage caused by the recent revolution and by carrying out urgent improvements which had been projected but performance of which was rendered impossible by causes resulting from the recent revolution.

As Whigham¹ will arrive in Habana September 11 for purpose of discussing this matter with President on behalf of railroad company, you are directed to present Department's views to President before Whigham's arrival.

Department has given careful consideration to contents your No. 484 of August 6 and to your recommendations contained therein, and relies upon your discretion and knowledge of the situation to obtain from President some reliable assurance either to you or to the railroad company that Government of Cuba will take immediate and adequate steps looking toward rehabilitation of Cuba Railroad. Cable results your conference at earliest opportunity.

LANSING

File No. 837.51/271

The Minister in Cuba (Gonzales) to the Secretary of State

[Telegram]

HABANA, September 11, 1917, 10 p. m.

Your undated [September 8, 2 p. m.] received September 8. Had long interview with the President to-day regarding advances to

¹President of the Cuba Railroad.

Cuba Railroad and loan by the United States. He expressed willingness to advance all railroad can expend in betterment for next sugar crop.

He has just had a consultation with general manager of this railroad, Hudson, who is practical railroad man, and has detailed report of conditions from him, but he said that he would have to hear proposals of President Whigham with whom he has appointment tomorrow before he can go into details. He will have railroad inspected immediately by engineers including Wagoner, the American appointed on recommendation of General Crowder, as engineer for Habana paving and surveying contract. Will invite Whigham to send an engineer with the [omission].

The President says that he cannot find where the million dollars he advanced Whigham has been expended on equipment or improvement.

I told the President that while I had [no?] information about the amount my Government was willing to lend in Cuba for the Navy and Army equipment, that whatever amount he would agree to advance railroads I would recommend be lent to his Government if necessary. Concluding our interview he asked that I assure the Department that the sugar yield would not be affected by condition of railroad.

GONZALES

File No. 837.51/272

The Minister in Cuba (Gonzales) to the Secretary of State

[Telegram]

HABANA, September 14, 1917, 10 p. m.

Your September 13, 5 p. m.¹ Whigham did not attempt to reach any precise agreement with President, but told me the conference was satisfactory and that the President would see him again after another talk with me to-day. I had an interview with President and he assured me he would make further advances in Cuba Railroad and facilitate work of betterments, suggesting among other things, that sugar mills along line lend road all their capable railroad workmen for the next two months. He stated that Whigham would see him again Monday and present his program.

I am satisfied all reasonable assistance will be offered road and recommend that the matter of the loan be settled at the earliest practicable opportunity; also that if it has been determined to lend Cuba certain amount to cover immediate extra expenses for the Navy and Army, that an additional two million be added thereunto "as assistance to Cuban Government in meeting a war emergency presented in the necessity for extending financial aid to railroads."

GONZALES

¹ Not printed.

File No. 837.51/270

The Secretary of State to the Cuban Minister (De Céspedes)

WASHINGTON, September 15, 1917.

SIR: With reference to the conversation which I had, on August 11 last, with you and with Dr. Guillermo Patterson, Subsecretary of State of Cuba, and Colonel Manuel Despaigne, Collector of Customs of the Port of Habana, who had been sent by the Government of Cuba to the United States for the purpose of submitting to the Government of the United States data relating to the law passed by the Cuban Congress on July 31, 1917, providing for the issue of not to exceed \$30,000,000 in gold bonds, bearing interest not to exceed 6 per centum per annum and creating certain taxes for the payment of the interest and principal of the bonds authorized, I have the honor to inform you that the above-mentioned data subsequently submitted to the Department of State, have been the subject of careful consideration by this Government. As the study of this evidence, which has been transmitted to this Department, would appear to indicate the ability of the Government of Cuba to meet the interest on the proposed bond issue from its "ordinary revenues," as provided for by the treaty between Cuba and the United States of 1903, provided the current expenditures of the Government of Cuba are not increased beyond the amount stipulated in the budget for the year 1917-18, I have the honor to inform you that the Government of the United States sees no objection to the bond issue being made as desired.

In reply to your note of August 15 last, enclosing a copy of a memorandum which was presented by you to the Secretary of the Treasury, in regard to the financial aid the Government of Cuba had instructed you to ask of the Government of the United States, to meet the extraordinary expenses caused to Cuba by the state of war existing between the Republic and the Imperial German Government, and in which you set forth the desire of your Government to effect a loan of \$15,000,000 from the Government of the United States to cover expenditures for the military purposes of your Government, I wish to acquaint you with the fact that the Secretary of the Treasury has advised me that he is prepared to proceed with this matter in the immediate future.

Accept [etc.]

ROBERT LANSING

File No. 837.51/272

The Secretary of State to the Minister in Cuba (Gonzales)

[Telegram]

WASHINGTON, September 15, 1917, 6 p. m.

Your September 11, 10 p. m. and September 14, 10 p. m. Department has to-day sent an official note to Cuban Legation stating that it sees no objection to bond issue of \$30,000,000 and advising that Secretary of Treasury is prepared to proceed in the matter of the

loan of \$15,000,000. A note was also sent to the Legation acknowledging an *aide-mémoire* signed by the Minister stating that Government of Cuba would see to it that railway companies maintain their lines in a suitable condition for the handling of the next sugar crop, and expressing gratification at assurances made to you by President of Cuba, and concluding by saying that as the Secretary of the Treasury has stated that he can proceed with the loan, the Department expresses the wish that steps be taken at earliest opportunity to put into effect these assurances, and asking to be informed what arrangement has been made with Cuba Railroad Company.

The Department does not believe that the Treasury Department will see its way clear to lending Cuba more than \$15,000,000, and therefore does not believe that it will be possible to carry out the suggestion contained in your September 14, 10 p. m.

As it would appear from all reports received that three million will be needed by the Cuba Railroad to put it in efficient running order, Department desires to have that amount kept in mind when program is discussed with President Menocal and awaits results of any further conferences with great interest.

LANSING

File No. 837.51/273

The Minister in Cuba (Gonzales) to the Secretary of State

[Telegram]

HABANA, September 16, 1917, 1 p. m.

Your September 14 [15?], 6 p. m. I am satisfied President Whigham is not going to ask President for any special amount of money. He has expressed to me earnest wish that condition of Cuba Railroad be not further introduced as obstacle to loan.

Referring to last paragraph in your September 15, 6 p. m., Whigham tells me his program for work until end of January, including payment of half million for rails ordered and building additional repair shop, contemplates expenditure of \$2,000,000. The concluding sentence of my September 14, 10 p. m., took this into account and I suggested the language to be used as conveying a condition in terms that could not offend while imposing a moral obligation on Cuba if the extra two millions were accepted. With this view before him I hope the Secretary of the Treasury will consider favorably the suggestion.

GONZALES

File No. 837.51/269

The Secretary of State to the Secretary of the Treasury (McAdoo)

WASHINGTON, September 20, 1917.

MY DEAR MR. SECRETARY: I have received your Department's letter of September 5, 1917, in which you request an expression of my view as to whether "a mere declaration of war by the Cuban Government is in fact such an act as will permit the Secretary of

the Treasury to assume that that Government is engaged in war" within the terms of the act of Congress, approved April 24, 1917, and entitled "An Act to authorize an issue of bonds to meet expenditures for the national security and defense, and for the purpose of assisting in the prosecution of the war, to extend credit to foreign governments, and for other purposes." Your letter appears to be based on the assumption that the Cuban Government has done no more in the prosecution of hostilities against Germany than to make "a mere declaration of war."

The question as to whether, under a given state of facts, your Department would be authorized, under the provisions of the above-mentioned act, to make a loan to the Cuban Government, would seem to be one for determination by the Attorney General.

With reference to the facts regarding the activities of the Cuban Government, however, I may state that, according to the Department's records, the President of Cuba, on April 7, 1917, in pursuance of an act which had been unanimously passed by the Cuban Congress on that date, declared that from that day a state of war then existed "between the Republic of Cuba and the Imperial German Government." The act of the Cuban Congress authorized the President of that country "to dispose of the land and sea forces in such manner as he should deem necessary, utilizing the existing forces, reorganizing them or creating new forces, and to dispose of the economic resources of the nation as required," and called upon the President of Cuba to "report to Congress the measures which he shall adopt in fulfilment hereof."

In a telegram bearing the same date as this act of Congress and presidential proclamation, the American Minister at Habana reported that "protective measures" had been taken by the Cuban authorities "so far as possible;" that a German hemp factory near Matanzas, where activities had been suspected and where a German Army officer had been located, had been occupied by the Cuban forces; that an "order for the registration of every German in the country" had been telegraphed to the district military commanders, as well as orders for the arrest of German Reserve officers in Cuba, and that the German vessels "interned" in Cuban ports had been seized and their officers and crews placed in the Habana fortress. Subsequently, as you are aware, the Cuban Government sent a commission to the United States to confer with this Government regarding the matter of the prosecution of the war against the common enemy.

On April 12, 1917, the President sent to the President of Cuba a telegram reading as follows:

I am greatly impressed by the unanimity with which the Cuban people through their constituted Congress have unhesitatingly cast in their lot with the nations of the world who are championing the rights and liberties, not alone of neutrals, but of all mankind. We rejoice that Cuba, having gained the prize of self-government through sacrifice and blood, is in a position to appraise, as all regenerated peoples do, the worth of that prize, and stands ready to aid in confirming its existence for the welfare of mankind.

On April 14, 1917, the Minister at Habana was instructed to convey to the Cuban Government an appropriate expression of the gratification of the United States "at Cuba's desire to cooperate in sending such a commission to the United States."

In view of the above-mentioned facts and of these communications to the Cuban Government, I would suggest that if it be deemed inexpedient, at the present time, to make a loan to the Cuban Government under the terms of the act of Congress of April 24, 1917, the refusal should be based on other grounds than that Cuba is not, at the present time, "engaged in war with the enemies of the United States," as indicated in this act.

Sincerely yours,

ROBERT LANSING

File No. 837.51/277

The Acting Secretary of the Treasury (Crosby) to the Secretary of State

WASHINGTON, October 5, 1917.

MY DEAR MR. SECRETARY: I enclose herewith draft of a letter which I think should be sent to the Cuban Minister. This letter explains the difficulties which have been met in regard to the bonds which the Cuban Government is in position now to deliver to this Government, and which apparently can not be corrected except by further action of the Cuban Congress.

It is presumed that your approval of the bond issue as now authorized may possibly refer to all of its specific terms, and consequently if those specific terms are changed, even though only in manner made necessary by the requirements of our own statutes, further approval would probably be required.

If you see no objection to the reference to your Department made in the last paragraph, or any other objection, the letter will go forward as written.

Cordially yours,

OSCAR T. CROSBY

[Enclosure—Draft]

The Acting Secretary of the Treasury (Crosby) to the Cuban Minister (De Céspedes)

WASHINGTON, October 5, 1917.

MY DEAR MR. MINISTER: After consultation with you and consideration of the existing legal situation by the legal advisers of this Department, it appears that the Secretary of the Treasury could not under the provisions of the act of Congress approved September 24, 1917, purchase the obligations of your Government, the issue of which has been authorized by an act of your Congress dated July 31, 1917. That act limits the rate of interest upon the bonds authorized to be issued at 6 per cent.

On the other hand, the Secretary of the Treasury must require of all governments whose obligations he may purchase under its authority an agreement that the rate of interest, whatever it may be at the beginning of a transaction, shall from time to time be raised, if the rates of interest paid by the United States on its own obligations issued during the war should increase, and the rate to be paid by a foreign government borrowing under these conditions can not at the final stage be less than the rate paid by the United States on its obligations. Consequently, the Secretary of the Treasury can not admit in the obligations purchased by him of a limitation of 6 per cent or any other specified percentage.

I understand that the Cuban Congress will meet in the early part of November and I suggest that, if your Government desires to complete the sale of the \$15,000,000 of bonds, under discussion, to this Government, remedial legislation should be enacted so that the obligations of your Government will con-

form in all respects to the requirements of the statutes of the United States permitting such loans to be made.

In the meantime I may state that the Secretary of the Treasury has determined, with the approval of the President, to purchase such obligations when they can be presented in conformity with the United States statute in question to the extent of \$15,000,000. The initial interest rate would be 4½ per cent, with the provisions above indicated as to possible conversions to higher rates, and the form and terms of the bonds in other respects to be as determined by the Secretary of the Treasury.

I am sending a copy of this communication to you to the State Department, in order that it may be fully advised of the situation now developed, and it goes quite without saying that the consent of that Department to the modified bonds will be asked for by you under the provisions of the Platt amendment and any undertaking on the part of the Secretary of the Treasury concerning them is subject to such approval by the State Department.

In the meantime, I remain [etc.]

[File copy not signed]

The Secretary of State to the Secretary of the Treasury (McAdoo)

WASHINGTON, October 12, 1917.

SIR: I have the honor to acknowledge the receipt of your Department's letter of the 5th instant enclosing a draft of a letter which the Treasury Department proposes to send to the Cuban Minister at this capital regarding the bonds which the Cuban Government expects to deliver to the Government of the United States.

In reply I have the honor to say that this Department sees no objection to the letter being sent as drafted. It is suggested, however, in this relation that if there remains any doubt as to the constitutionality of the Cuban law which authorized the making of the loan in question, the matter should be cleared up by subsequent legislation at the same time that the matter referred to in the Treasury Department's letter is passed upon by the Cuban Congress.

I have [etc.]

ROBERT LANSING

File No. 837.51/283

The Assistant Secretary of the Treasury (Leffingwell) to the Secretary of State

WASHINGTON, November 7, 1917.

DEAR SIR: In the absence of the Secretary, I beg to transmit herewith a copy of a letter dated October 29 from the Cuban Government stating that under the Cuban Constitution it is impossible to comply with the requirements of the act of the Congress of the United States of September 24 in relation to loans to foreign governments.

I have [etc.]

R. C. LEFFINGWELL

[Enclosure]

The Cuban Minister (De Céspedes) to the Secretary of the Treasury (McAdoo)

No. 151

WASHINGTON, October 29, 1917.

MY DEAR MR. SECRETARY: With reference to previous correspondence with your Department and to the negotiations I was instructed to pursue of the subject of a loan by the United States of fifteen millions of dollars to my Government, I regret to inform you that, after careful study of the legislation of the United States and Cuba on this matter, and in view of the article of the Cuban Constitution that does not permit loans to be contracted unless the Cuban

Congress has previously fixed the interest thereon, which makes it impossible to enact any legislation that would be in harmony with the recent act of the Congress of the United States of America approved September 24, 1917, my Government is obliged to thank the Government of the United States for their friendly interest and willingness to subscribe the aforesaid amount of our loan, and must have recourse to the bankers of this country for the placing of our bonds.

This circumstance has not changed in any way the purposes of my Government to dedicate the funds thereby obtained principally to meet its obligations as a fervent ally of the United States and the nations of the Entente in the present war.

I am [etc.]

CARLOS MANUEL DE CÉSPEDES

File No. 837.51/284

The Secretary of the Treasury (McAdoo) to the Secretary of State

WASHINGTON, November 20, 1917.

DEAR MR. SECRETARY: Under date of November 7, Assistant Secretary Leffingwell wrote you enclosing copy of a letter, dated October 29, from the Cuban Minister, which for the time being terminated negotiations relative to a loan by this Government to the Cuban Government. Mr. Gonzales, our Minister to Cuba, informs me that the Cuban Government has, at the suggestion of the State Department, made commitments for advances to the Cuba Railroad, in order to insure getting out the next Cuban crop, and that, at the suggestion of the Navy Department, has made contracts for the purchase of submarine chasers. Mr. Gonzales further informs me that the Cuban Government has relied upon receiving a loan of \$15,000,000 from this Government with which to meet these commitments. I should like to have from you, therefore, a statement of your views in order to ascertain if there is any moral obligation to give Cuba financial assistance. I was not only willing, but glad to make a loan to Cuba, and I was sorry that the Cuban Government encountered legal obstacles for negotiating a loan on the basis that had been outlined. I desire to have the above information because it may be possible, if found advisable, to work out some plan to give at least temporary assistance to Cuba.

Sincerely yours,

W. G. McADOO

The Secretary of State to the Secretary of the Treasury (McAdoo)

WASHINGTON, December 1, 1917.

SIR: I have the honor to acknowledge the receipt of your communication of November 20, 1917, requesting an expression of opinion from this Department as to whether any moral obligation rests upon the Government of the United States to give Cuba financial assistance. In reply I desire to inform you that an examination of the correspondence passed between the Department and the Cuban Government would appear to show that a certain moral obligation does exist for the reason that the American Minister to Cuba, under instructions from the Department in preliminary conversations respecting the proposed loan, especially recommended to the Cuban Government that a certain portion of this loan, roughly in the neighborhood of \$3,000,000, be set aside for the purpose of establishing a credit in favor of the Cuba Railroad, should this railroad guarantee

to expend these moneys in the necessary improvements in roadbed and additions to their rolling stock and in repairing the damages done to the road during the last revolution.

Mr. Whigham, President of the Cuba Railroad, informed the American Minister at Habana, that the Cuban Government has assured him of credits in the neighborhood of \$3,000,000, upon the statement of which his railroad had undertaken large improvements.

I have [etc.]

ROBERT LANSING

File No. 837.51/285

The Secretary of the Treasury (McAdoo) to the Secretary of State

WASHINGTON, December 14, 1917.

SIR: I have the honor to acknowledge the receipt of your communication of the first instant, in reference to financial assistance for Cuba. I note that the Cuban Government, upon the recommendation of the State Department, made a commitment to establish a credit in favor of the Cuba Railroad to possible extent of \$3,000,000, and that from the correspondence between the State Department and the Cuban Government it appears that a certain moral obligation exists to give financial assistance to Cuba. For your further information on this subject, I beg to enclose copy of a letter written by Mr. Davis, at my request, to Mr. Gonzales, our Minister in Cuba.

I am [etc.]

W. G. McADOO

[Enclosure]

The Adviser to the Secretary of the Treasury (Davis) to the Minister in Cuba (Gonzales)

WASHINGTON, November 23, 1917.

DEAR MR. GONZALES: In regard to the proposed loan to Cuba, I have had a talk with the Navy Department, as suggested by Secretary McAdoo, from which the following information, in substance, was obtained:

As a result of conferences at the Navy Department with the Military Committee sent up from Cuba, the Navy Department agreed to obtain for the Cuban Government certain guns and ammunition, to repair the Cuban gunboats, and to obtain for Cuba 16 wooden submarine chasers as soon as the more pressing needs here had been taken care of and the chasers could be spared. The Cuban Government has already deposited with the Navy Department something like \$500,000 to cover the cost of the guns and munitions and the repairs to the gunboats. The estimated cost of repairs to the gunboats was \$200,000 and the estimated cost of the 16 submarine chasers is \$1,600,000, but as the submarine chasers can not be delivered for some time yet, and even then only through the Navy Department, there appears to be no pressing need for money for that purpose.

I was informed by the Navy Department that a total of \$2,500,000 would more than cover everything agreed upon to be purchased by Cuba in this country for the above purposes.

I was further informed that the Cuban Government had turned over the German ships which were seized in Cuba without cost, and that the Cuban Navy is patrolling the coast of Cuba and cooperating most enthusiastically, and that it was considered advisable to encourage their enthusiasm.

The Navy Department is to write to the Treasury Department confirming the above statements, and a letter is expected also from the State Department. I am simply advising you in advance, because it now appears that besides the \$2,500,000 which the State Department was desirous of having the Cuban Government advance to the Cuba Railroad, \$2,000,000 additional would be about all that Cuba would require in this country. Of course, Cuba's expenses will increase on account of her increased military activity, but I imagine the increased tax will easily take care of that. From the information thus far

obtained, it seems that \$5,000,000 would be sufficient to meet all pressing needs and prevent any financial embarrassment to the Cuban Government. However, it would no doubt be advisable to ask Cuba to furnish a statement of her requirements over and above her estimated income.

Secretary McAdoo is very anxious to assist Cuba in every possible way, but as it is necessary to limit as much as possible the calls on the Treasury, he naturally wishes to avoid making any advances which may not be absolutely necessary.

Very sincerely yours,

NORMAN H. DAVIS

File No. 837.51/286a

The Acting Secretary of State to the Minister in Cuba (Gonzales)

[Telegram]

WASHINGTON, January 19, 1918, 7 p. m.

Report by cable attitude of the Cuban Government toward a loan from the United States Government, and whether it is likely that Cuba will again request loan.

POLK

File No. 837.51/287

The Minister in Cuba (Gonzales) to the Secretary of State

[Telegram]

HABANA, January 22, 1918, 1 p. m.

Your January 19, 7 p. m. I presented again subject to President yesterday. I had done so December 5 last. He gave instructions to have data prepared for me and then left Habana for long trip. This data was never presented. The President yesterday directed its preparation and I will have it in a few days.

GONZALES

File No. 837.51/293

The Adviser to the Secretary of the Treasury (Davis) to the Chief of the Division of Latin American Affairs of the Department of State (Stabler)

WASHINGTON, January 30, 1918.

DEAR MR. STABLER: Referring to your verbal inquiry in regard to a proposed loan to the Cuban Government, I beg to enclose copy of a letter which I wrote yesterday to Mr. Gonzales, Minister to Cuba, which gives a résumé of the situation. On November 23 last, I wrote to him on the same subject, and a copy of this letter was sent to the Secretary of State by the Secretary of the Treasury on December 14. I had understood that Mr. Gonzales on his return to Cuba would take the matter up with the President along the lines suggested by me and advise us further. I notice, however, from the paraphrase of the telegram dated January 22 from the Legation at Habana to the State Department (a copy of which was forwarded to this Department on the 24th instant), that the Minister had on December 5 last, suggested to the President of Cuba that he have data prepared and that the President has now given instructions to have this done. I hope that the copy of my letter to Mr. Gonzales, enclosed herewith, will also enable you to answer the letter of January 9 written by

the President of the Cuba Railroad to you,¹ a copy of which was forwarded to the Secretary of the Treasury by the Counselor of the State Department on January 17, 1918.

Very truly yours,

NORMAN H. DAVIS

[Enclosure]

The Adviser to the Secretary of the Treasury (Davis) to the Minister in Cuba (Gonzales)

WASHINGTON, January 29, 1918.

DEAR MR. GONZALES: Judging from your letter of the 14th instant, there has been some mistake in regard to the Cuban loan, because I have been waiting to hear from you. I shall therefore endeavor to review the entire matter in accordance with my understanding. Secretary McAdoo is anxious to assist Cuba and is disposed to make a special effort to do so. He was prepared some time ago to make a loan of \$15,000,000 applied for by the Cuban Government, but could not do so because the bonds or obligations which the Cuban Congress authorized the President to issue and negotiate did not conform to some of the essential requisites of the act of the United States Congress, authorizing the Secretary of the Treasury to make loans to foreign governments. It was then suggested that the President of Cuba get a supplementary authority to issue obligations in accordance with such requirements, but later on the Cuban Minister notified the Secretary of the Treasury that under the Cuban Constitution, Congress could not authorize the President to issue obligations to conform to the American law.

Subsequently, in an interview with Secretary McAdoo, you explained that the Cuban Government, relying upon obtaining a loan from the United States, had, at the suggestion of our State Department, made commitments to advance approximately \$2,500,000 to the Cuba Railroad and, at the request or approval of the Navy Department, to make certain naval preparations, including the purchase of 16 submarine chasers. Secretary McAdoo then told you that he would take the matter up with the State and Navy Departments, and that he would feel justified in making an exception in order to assist Cuba to the extent of any such commitments. At the time, you were under the impression that the commitments made would amount to approximately \$10,000,000, but, subsequently, the Navy Department informed us that the total expenditures involved in the plan approved by them would not exceed \$2,500,000. I explained to you in my letter of November 23 and in a subsequent conversation that, according to the information obtained, \$5,000,000 would cover all commitments made by Cuba of which the State and Navy Departments had any knowledge, but that it would be advisable to ask the Cuban Government to furnish a statement of commitments and financial requirements incident to the war, in order to conform to the custom of the Treasury Department of obtaining from all governments statements showing financial requirements in excess of available funds. I also told you I thought the difficulty regarding the changeable rate of interest, which prevented the Secretary of the Treasury from purchasing Cuban obligations as now authorized, could be overcome to the extent of at least giving Cuba temporary financial assistance by making a demand or short-time loan. According to the Cuban law, authorizing the \$30,000,000 loan, the President is authorized to sell all or a part of the bonds or to give them in payment of other obligations or to pledge them as security for funds which he may borrow. It therefore seemed to me that he could borrow, say, \$5,000,000 from this Government giving a demand note guaranteed by bonds. At present, the rate of interest would be 4½ per cent, and when it becomes necessary to change the rate, a new demand note could accordingly be given in exchange. Of course, the objection to this plan is that such operations could not be continued indefinitely, but it would provide Cuba with funds needed now and give a reasonable time in which either to pass necessary legislation for obtaining a more permanent loan or to make arrangements to take up the short-time loan. I had understood that you would take this matter up with President Menocal along these lines and advise us of his views and wishes. It seems to me that is the next step to take before anything further can be done, and I would suggest that

¹ Not printed.

you proceed along the lines indicated. Mr. Stabler came to see me only a few days ago to inquire if anything had been decided definitely regarding a loan to Cuba, and I told him that nothing further had been done or could be done until we heard from you.

With kindest regards [etc.]

NORMAN H. DAVIS

File No. 837.51/292

The Minister in Cuba (Gonzales) to the Secretary of State

No. 581

HABANA, February 18, 1918.

SIR: I have the honor to report that on returning to Cuba in the first week of last September, I asked President Menocal for a statement of expenses of the Republic of Cuba on account of the war, explaining that both the Department of State and the Secretary of the Treasury of the United States were desirous of furthering a loan to Cuba, and hoped to find means to overcome legal obstacles that had arisen.

President Menocal stated that all this data had been taken to Washington by Doctor Patterson, the Subsecretary of State, but he would have it prepared. The President then left Habana for a period of two and a half weeks, and early in January I again asked him for the statement. He urged General Marti to hasten the preparation of his part of it.

Two weeks ago the President was taken ill and has now gone to his country place, El Chico, to recuperate, but he has sent General Marti to me with a statement of expenditures, actual and proposed, on account of the war. I am enclosing in duplicate the translations.

President Menocal asks for the loan of \$15,000,000.

Cuban naval vessels are doing patrol duty on the Cuban coasts, and to that extent, the American Naval officer, representing Admiral Anderson here, informs me, relieving the American Navy of such duty.

I have [etc.]

WILLIAM E. GONZALES

[Enclosure—Translation]

ARMY

Budget increase by reason of reorganization under decree No. 600, 1917-----	\$5, 579, 420. 67
Increase in personnel of surgeons, veterinary, and Signal Corps, according to plan of reorganization-----	181, 488. 00
Cost of war supplies which the present Secretary of War and Navy has requested of the Washington Government-----	282, 618. 00
Cost of telegraph material for the Department of Posts and Telegraphs, which the present Secretary of War and Navy requested of the American Government on his recent visit to Washington-----	248, 865. 00
Cost of repair of works of defense of the City of Habana-----	280, 000. 00
Cost of artillery and emplacement thereof-----	54, 970. 00
Cost of ammunition for the artillery of the defense of Habana-----	2, 816, 280. 00
Purchase of 50 machine guns and equipment therefor-----	48, 300. 00
Extraordinary expenses for the purchase of cattle, and supplies of all kinds, for replacement of those destroyed and lost during the late uprising, and for the purchase of trappings and equipment for increased mounted forces-----	1, 518, 073. 62
Cost of supplies for Signal and Aviation Corps-----	100, 000. 00
Estimated cost of building new quarters, hospitals, and infirmaries of the Army, and repair of existing ones-----	4, 000, 000. 00
Total-----	\$15, 110, 015. 29

NAVY

Budget increased by reason of reorganization under decree No.	
1427 of 1917-----	\$337,644.00
Repairs to schoolship <i>Pairia</i> and gunboat <i>Baire</i> to date-----	183,639.62
Cost of war supplies requested by Secretary of War and Navy, including radiotelegraph apparatus-----	469,679.96
Sixteen submarine chasers-----	1,600,000.00
Personnel and supplies for submarine chasers-----	316,160.00
Installation for radiotelegraph stations, buildings, etc-----	227,618.45
Total-----	\$3,134,742.03

ADDITIONAL COST

Increased police force-----	\$730,325.92
Cost of increased harbor police-----	24,500.00

One million dollars has already been advanced to the Cuba Railroad, and an additional \$2,000,000 will be loaned to that Company, making a total of \$3,000,000.

An advance has been made to the Cuban Eastern Railway Company of \$93,000.

RECAPITULATION

Army-----	\$15,110,015.29
Navy-----	3,134,742.03
Police and harbor police-----	754,825.92
Cuba Railroad-----	3,000,000.00
Cuba Eastern Railroad-----	93,000.00
Total-----	\$22,092,583.24

File No. 837.51/291

The Acting Secretary of State to the Food Administrator (Hoover)

WASHINGTON, February 19, 1918.

SIR: The Department is in receipt of your letter of February 19¹ in which you state that owing to the general financial stringency in commodity loans and to the reactive effect of the stoppage of credits to German banking institutions in Cuba, to the higher price of Cuban sugar than normal, and to the slower movement of the sugar from Cuba to consumption, there has been imposed the necessity of organized finance for the Cuban sugar crop, and that the Cuban banks have already extended loans to their complete limit, and that unless some relief can be gotten within the next several days there will be a stoppage in the grinding of sugar, which will result not only in the destruction of large quantities of sugar but will bring about another sugar famine in the United States. You further state that this matter has been taken up with American financiers with a view to organizing a loan of \$100,000,000 for this purpose, and that the Secretary of the Treasury has instructed the Federal Reserve Banks to lend every possible assistance in consummating the underwriting, and the Shipping Board has agreed to provide a minimum of 2,000,000 tons of shipping to move the sugar from Cuba to the United States. You further state that the banking interests which are ready to undertake this loan desire to be informed whether the matter is one which is in accord with the policy of the Department of State.

¹ Not printed.

In reply, the Department desires to call your attention to a letter which was directed by the Secretary of State to the Secretary of the Treasury on February 12 in this connection, a copy of which is herewith enclosed,¹ and wishes to reiterate the statement which was made in this letter to the effect that it trusts that the necessary credit to meet the present situation in regard to the Cuban sugar crop may be consummated at an early moment.

I have [etc.]

FRANK L. POLK

File No. 837.51/294

The Cuban Minister (De Céspedes) to the Secretary of State

[Translation]

No. 55

WASHINGTON, March 6, 1918.

MR. SECRETARY: I have the honor to deliver to your excellency the letter¹ which accredits me as having been vested by the honorable President of the Republic of Cuba with full and general power and authority to negotiate and conclude with your excellency's Government and in the name and as representative of the Republic of Cuba the loan of 15,000,000 pesos in bonds of the Treasury of Cuba authorized by the law of July 30 of last year, and to deliver the bonds and receive the proceeds thereof.

I beg your excellency to be pleased to advise the Treasury Department that I have presented the said credentials to the Department of State in order to perfect the loan of fifteen millions to my Government by the sale or on the security of the said bonds under the instructions I have received from the President and the Secretary of State of Cuba.

I reiterate [etc.]

CARLOS MANUEL DE CÉSPEDES

File No. 837.51/295

The Assistant Secretary of the Treasury (Leffingwell) to the Counselor for the Department of State (Polk)

WASHINGTON, March 7, 1918.

DEAR MR. POLK: The Secretary of the Treasury is intending to establish a credit of \$15,000,000 in favor of the Republic of Cuba and I will be obliged if you will advise this department whether the Republic of Cuba has power to incur this indebtedness and whether the Cuban Minister has authority to sign obligations for the amounts advanced. It is intended to take Cuban demand obligations for the amounts advanced, secured by the pledge of bonds of the Republic of Cuba authorized by the act of the Congress of Cuba of July 31, 1917.

Very truly yours,

R. C. LEFFINGWELL

¹ Not printed.

File No. 837.51/319

The Assistant Secretary of the Treasury (Leffingwell) to the Counselor for the Department of State (Polk)

WASHINGTON, March 9, 1918.

DEAR MR. POLK: Your letter of the 7th instant addressed to the Secretary of the Treasury¹ has been duly received together with the enclosures: viz., copy of the letter of March 6 from the Cuban Minister to the Secretary of State and translation of the authority given the Cuban Minister by the Republic of Cuba.

This authority is apparently limited to negotiations for a sale to the United States Government of certain bonds and the receipt of the proceeds resulting from such sale. The contemplated transaction with the Republic of Cuba is quite different. A credit in the amount of \$15,000,000 has been established in favor of the Republic of Cuba and it is intended that cash advances be made therefrom upon the receipt of demand obligations of the Republic of Cuba secured by the hypothecation and pledge of the Cuban bonds authorized by the act of the Cuban Congress of July 31, 1917.² The authority of the Cuban Minister above mentioned appears to be insufficient to give such obligations or to receive the proceeds thereof. In explaining the situation to the Cuban Minister I suggested either that he obtain a new authority in the same form as the old authority (with appropriate change in dates), except that there be added an additional power in substantially the following words:

or in his discretion to negotiate and conclude a loan from the Government of the United States of America for not exceeding \$15,000,000, to receive the sums from time to time advanced on such loan, to execute obligations therefor in such form as he shall approve and to hypothecate and pledge as security for such loan all or any of said 15,000,000 pesos of bonds of the Treasury of the Republic of Cuba,

or that he obtain a new authority from his Government to execute the obligations in the form proposed by this Department (of which a copy is enclosed), to receive the advances and to pledge the Cuban bonds as security therefor. The form of obligation to be taken from the Republic of Cuba was handed the Cuban Minister. The Cuban Minister stated that he would advise with the State Department in regard to communicating with his Government in relation to the matter. I understand that the Cuban Minister is anxious to have some portion of the proposed credit made available in cash to the Republic of Cuba as soon as practicable and the Treasury Department is prepared to act when advised by the State Department that the Republic of Cuba has power to incur the indebtedness and the Cuban Minister is duly authorized to execute the obligations and to receive the advances.

Very truly yours,

R. C. LEFFINGWELL

¹ Not printed.

² *Ante*, p. 295.

File No. 837.51/298

The Cuban Minister (De Céspedes) to the Secretary of State

[Translation]

No. 61

WASHINGTON, March 18, 1918.

MR. SECRETARY OF STATE: I have the honor to deliver to your excellency, with a request that it be returned, the credentials which set forth the new powers that have been conferred upon me by the Honorable the President of the Republic, to conclude with the Government of the United States the loan of 15,000,000 pesos to my Government, secured by the bonds of the Treasury of Cuba, issued in accordance with the law of July 31, 1917.¹

I beg your excellency to make my new credentials known to the Treasury Department.

I reiterate [etc.]

CARLOS MANUEL DE CÉSPEDES

[Enclosure—Translation]

MARIO G. MENOCAL

PRESIDENT OF THE REPUBLIC OF CUBA

TO ALL WHO THESE PRESENTS MAY SEE, GREETING:

Know ye, that reposing special certainty and confidence in the integrity, tact, and ability of Señor Carlos Manuel de Céspedes y Quesada, Envoy Extraordinary and Minister Plenipotentiary of the Republic of Cuba to the United States of America, I have vested him in the full power and authority, of every description, to interview and confer, in the name and as representative of the Republic, with any person or persons authorized in good form by the Government of the United States of America who may appear vested with equal power and representative character, and with the said attorney or attorneys; in fact, to negotiate at will and conclude a loan from the Government of the United States of America in an amount that may not exceed 15,000,000 pesos, to receive at set periods the sums that may be delivered chargeable to the said loan, executing the corresponding obligations in the form that may be deemed expedient, and to pledge and be able to give as security all or part of the 15,000,000 pesos of bonds of Series A of the Treasury of Cuba authorized by the law of July 31, of the year 1917 last.

In testimony whereof I issue the present full power signed with my hand, authenticated with the seal of the Nation and countersigned by the Secretary of State.

Given at the City of Habana, at the Palace of the Presidency, on this 15th day of the month of March, one thousand and nine hundred and eighteen.

M. G. MENOCAL

Seal of the Republic of Cuba

PAOLO DESVERNINE

File No. 837.51/295

The Secretary of State to the Secretary of the Treasury (McAdoo)

[Extract]

WASHINGTON, March 26, 1918.

MY DEAR MR. SECRETARY: I have received your letter of March 7, wherein you inquire, first, whether the Republic of Cuba has the power to incur the indebtedness of fifteen millions of dollars, which is the amount of the loan proposed to be made to that country; and,

¹Ante, p. 295.

second, whether the Cuban Minister has the authority to sign obligations for the amounts advanced on the proposed loan.

In reply, I beg to say that when the granting of a loan to Cuba by this Government was in contemplation during last summer, the Department took under advisement the political questions which it seemed pertinent to consider in connection with this matter, and in the Department's letter of September 15, to you,¹ indicated its views that there appeared to be no objection to the proposed loan. In this letter reference was made to a note addressed to the Cuban Minister of the same date,² a copy of which I enclose for your information.

Your special attention is directed to the proviso expressed in this note, namely, that "the current expenditures of the Government of Cuba are not increased beyond the amount stipulated in the budget for the year 1917-18." This Department is not informed as to whether, since the date of this note, the current expenses of Cuba have been increased beyond the budget of 1917-18. It is presumed that your Department may have definite information on this point.

Further consideration of the power of the Cuban Government to increase the proposed indebtedness, and the authority of the Cuban officials to act in the matter, would appear to involve a construction of the Cuban law of July 31, 1917, which presumably is still in effect. This is a matter which your Department has doubtless examined into thoroughly, but to which this Department has given little consideration.

The Department's letter to you of March 23 commented upon the official construction of this act in the full powers of the President of Cuba transmitted to you in that letter. It is believed that that letter will also be found to cover the second inquiry in your letter under acknowledgment. . . .

ROBERT LANSING

File No. 837.51/302

The Secretary of the Treasury (McAdoo) to the Secretary of State

[Extract]

WASHINGTON, March 29, 1918.

DEAR MR. SECRETARY: The receipt is acknowledged of your letter of the 26th of March 1918.

Before the receipt of this letter and, relying upon a letter from the Third Assistant Secretary of State dated March 23, 1918, an advance was made on the morning of March 27, 1918, to the Cuban Government of \$5,000,000 on its demand obligation secured by the pledge of \$5,000,000 of the Series A Treasury Bonds of Cuba, authorized by the law of July 31, 1917. The Cuban Minister states that he expects during April 1918 to ask for a further advance of \$5,000,000 on account of the credit established earlier in the month in favor of the Cuban Government, and I will be obliged, if, in the meantime, you will inform me whether because of any increase beyond the

¹ Not printed.

² *Ante*, p. 309.

amount stipulated in the budget of the year 1917-18, or for any other reason, the Cuban Government is not authorized to incur further indebtedness to this Government or to receive any further advance from the credit above mentioned, established in its favor up to the amount of such credit, viz., \$15,000,000.

The Treasury Department relies wholly on advices from the State Department as to the power of foreign governments to borrow money from the United States and as to the authority conferred upon representatives of such governments to execute obligations and to receive the amount of the loans and, accordingly, in view of your letter of March 26, no further advances will be made to the Cuban Government until the receipt of advices from the Department of State that it is satisfied that the balance of the credit established in its favor may be loaned to the Cuban Government. . . .

Cordially yours,

W. G. McADOO

File No. 837.51/301

The Cuban Minister (De Céspedes) to the Secretary of State

No. 63

WASHINGTON, March 29, 1918.

MY DEAR MR. SECRETARY: Your excellency is aware that the negotiations for a loan to Cuba by the Treasury of the United States were successfully terminated yesterday.

In my Government's name I have the honor of thanking your excellency for the interest that you have taken in this matter, as also your distinguished colleague the Honorable Secretary of the Treasury and all the officials of the two Departments with whom this loan has been conducted.

May I ask you to be good enough as to express to them, at the same time, my personal appreciation of courteousness and attentions?

With the assurances [etc.]

CARLOS MANUEL DE CÉSPEDES

The Secretary of State to the Minister in Cuba (Gonzales)

[Telegram]

WASHINGTON, April 5, 1918, 6 p. m.

It is important for Secretary of Treasury to be officially and fully advised as to whether or not full powers sent to Cuban Minister here are sufficient to clothe him with authority necessary for binding Cuban Government in accordance with Cuban laws in signing such obligations as may be determined by Secretary of Treasury under provisions of the act of Congress April 24, 1917, which has already been brought to the attention of the Cuban Government. Please bring this matter to Foreign Minister's attention and obtain as soon as possible official and explicit assurances as to the authority of Cuban Government under its Constitution and laws to grant such powers, and as to the binding effect of any obligations signed by Minister under such powers.

LANSING

File No. 837.51/303

The Minister in Cuba (Gonzales) to the Secretary of State

[Telegram]

WASHINGTON, April 6, 1918, noon.

Your April 5, 6 p. m. From previous conversation with Foreign Minister, and from his written statement contained in my March 19, 11 a. m.,¹ Cuban Government understands authority given Cuban Minister in document transmitted in my March 13, midnight,² to be complete and absolute. Please, therefore, express exactly the additional form desired so I may ask for it. Legation has not the act of Congress of April 24, 1917.

GONZALES

File No. 837.51/301

The Secretary of State to the Minister in Cuba (Gonzales)

[Telegram]

WASHINGTON, April 9, 1918, noon.

On September 15 last, when loan \$30,000,000 to Cuba was under consideration, Department studied with great care data sent here by Cuban Government relating to Cuban law of July 31, 1917,³ and financial condition of that country, and arrived at a conclusion which it transmitted to the Cuban Minister in a note of September 15⁴ as follows:

As the study of this evidence, which has been transmitted to this Department, would appear to indicate the ability of the Government of Cuba to meet the interest on the proposed bond issue from its ordinary revenues, as provided for by the treaty between Cuba and the United States of 1903, provided the current expenditures of the Government of Cuba are not increased [on account of Cuba's entry into the war] beyond the amount stipulated in the budget for the year 1917-18, I have the honor to inform you that the Government of the United States sees no objection to the bond issue being made as desired.

Department desires to be informed as to whether the budget 1917-18 has been increased; if so, how much, and in respect to what items. Department also desires to be informed whether the enclosure in your mail despatch 581, February 18, 1918,⁵ gives the latest data on this subject. Telegraph reply in full. On account of proviso in above quotation it may be necessary for Department to make a re-examination of data submitted by Cuba last autumn in the light of increased expenses of Cuba on account of her entry into the war.

LANSING

¹ Not printed.² Not printed; see enclosure to the Cuban Minister's note of March 18, *ante*, p. 322.³ *Ante*, p. 295.⁴ *Ante*, p. 309.⁵ *Ante*, p. 318.

File No. 837.51/303

The Secretary of State to the Minister in Cuba (Gonzales)

[Telegram]

WASHINGTON, April 13, 1918, 6 p. m.

Your April 6, noon. Full powers of Cuban Minister here may be complete and absolute, but what is desired is a formal official statement from Government of Cuba that: (1) full powers were granted in the form and by the persons required under the constitution, laws, decrees, and regulations of Cuba; (2) that the obligations entered into under such full powers are ratified in advance by the Cuban Government so that they do not require ratification of further approval by the Cuban Government to give them binding effect; (3) that Cuban Minister here is authorized to receive the advances heretofore and hereafter made under the obligations signed by him.

The acts of April 24 and September 24, 1917, in respect to authorizing the issuance of bonds and the establishment of credits in the United States for foreign countries have been mailed to you without a covering instruction.

LANSING

File No. 837.51/301

The Acting Secretary of State to the Chargé in Cuba (Scholle)

[Telegram]

WASHINGTON, April 20, 1918, 6 p. m.

Department's telegram April 5 regarding Cuban loan. After conference with Mr. Gonzales, who has explained the operation of the Cuban law of July 31, 1917, Department would like to have definite and specific information as to amount being derived from the tax imposed by this law, say at the expiration of six months, that is January 31, 1918. Department would also like to know definitely whether the income derived from taxes under this law may be diverted by the Cuban Government to other purposes than providing for the payment of the interest and the retirement of the bonds authorized by the law. If Government is authorized to divert any of such income, to what extent is this diversion authorized and for what purposes, and also in that event, what is the guarantee for the payment and amortization of the bonds. Department desires the foregoing information in addition to that requested in its telegram of April 9. Department is very anxious to have this data and the information asked for in its telegram of April 9 immediately, and you are instructed to cable the information at once as you receive it. Please mail Department immediately a copy of the Cuban law of July 31, 1917 with translation, if obtainable.

POLK

File No. 837.51/306

The Chargé in Cuba (Scholle) to the Secretary of State

[Telegram]

HABANA, April 30, 1918, 12 p. m.

Your April 29, 1 p. m.¹ I called personally on Secretary of the Treasury on receipt of your April 20, 6 p. m., and urged him to get me the information at once. He promised to attend to the matter himself. Since then I have daily, through the Subsecretary of State, urged haste. Am again to-day insisting on question being answered immediately.

SCHOLLE

File No. 837.51/309

The Minister in Cuba (Gonzales) to the Secretary of State

No. 628

HABANA, May 8, 1918.

SIR: Referring to the Legation's telegram of May 7 [4?] 10 p. m.,¹ regarding the matter of the Cuban loan of \$15,000,000, I have the honor to transmit herewith the original communication dated May 6, 1918, from the Cuban Secretary of the Treasury to the Cuban Secretary of State, together with a translation of same in duplicate.

I have [etc.]

WILLIAM E. GONZALES

[Enclosure—Translation]

The Cuban Secretary of the Treasury (De Cánio) to the Cuban Secretary of State (Desvergne)

HABANA, May 6, 1918.

SIR: I have the honor to reply through you to the list of questions placed in my hands by the Subsecretary of your Department who called at my office accompanied by the Secretary of the Legation of the United States, Acting Chargé d'Affaires.

The information desired is as follows:

1. Definite and specific information in regard to the amount derived from the stamp tax at the end of six months.
 2. Whether the revenue derived from the taxes may lawfully be diverted by the Government of Cuba to any other purpose than the payment of interest and the retirement of bonds authorized by law.
 3. If the Cuban Government has authority to divert any part of such revenue to other purposes—what is the extent of this authority, and for what purpose may it be diverted, and in that case, what guaranty is there for the payment of interest and amortization of the bonds?
- [4.] Copy of the law of July 31, 1917.

With reference to the first question, I append an official statement of the revenue obtained from September 1, 1917, the date upon which the law of July 31, 1917, creating new taxes, became effective, down to April 30, 1918; but call attention to the fact that the final returns for the month of April are on this date (May 6) still pending, for the Accounting Division of this Department has not received final returns from some of the tax offices and customhouses, but in any case the final figures will show an increase rather than a decrease in the amount already known.

I include the returns from the so-called "loan tax of 1904," during the same period because this tax was also created for the purpose of guaranteeing the public debt or the loan of 1904.

¹ Not printed.

Returns from:	Customhouses	Branch tax offices
1917 stamp tax-----	\$128, 469. 24	\$2, 275, 057. 57
Sugar and molasses taxes-----	-----	4, 092, 760. 89
1904 stamp tax-----	340, 083. 30	2, 269, 206. 84
	-----	-----
	\$468, 552. 54	\$8, 637, 025. 30

The tax upon sugar and molasses became effective November 1, 1917; that is to say, it is applicable only to the *zafra* or sugar year of 1917-18. The tax upon sugar is divided into two parts: the ordinary and the extraordinary, the former being 10 cents per sack and the latter an additional 10 cents, assessable as long as sugar is quoted in Cuba at 3 cents or more per pound. It is expected that this revenue will reach at least \$5,000,000. Some of the taxes provided for in the law of July 31, 1917, are not included in the foregoing statement because they are annual taxes and when the law became effective two months of the fiscal year 1917-18 had passed. Thus we are now beginning to collect the tax upon the profits of sugar and tobacco companies, insurance companies, banks, and others in the same class as determined by the text of the law. It will be possible to have the exact figures upon this revenue within four or five months, but the assessment is now well under way and these taxes will show good returns.

As to the second point, that is to say, whether the revenue derived from the taxes provided by this law may be diverted by the Government of Cuba to other purposes than the payment of interest and the retirement of bonds authorized by the law, I beg to call attention to the text of the law itself, which is very clear upon this point.

The President applied to Congress for funds with which to meet the needs of the civil and international wars in which we were engaged and in which we are still involved, and Congress responded by creating the taxes in question, which according to Article 2 of the law of July 31, 1917, are to be applied, first, to the payment of interest and amortization of the bonds, and second, to provide revenue for the budget in view of the existing state of war and of the needs of the Treasury.

The bonds issued under authority of this law may: (a) be given also in guarantee or payment of any obligations contracted by the Government in connection with the wars; (b) be sold or hypothecated for raising funds with which to make payments; (c) be used for purchasing and importing gold coin for the maintenance of the credit and gold standard of our monetary system; or (d) be exchanged for outstanding bonds issued in accordance with the so-called law of economic defense of January 1, 1915, known as the "\$5,000,000 issue."

There remains the third question; that is, whether the Cuban Government is authorized to divert this revenue to other purposes, to what extent it is so authorized, and for what purposes; and in that case, what guarantee is there for the payment and amortization of the bonds?

The Cuban Government has over the revenue so derived the same authority and control as over all other public revenue, though it is understood that such revenue is destined to guarantee the interest and amortization of the issue of the \$30,000,000.

When the amortization is in its apogee, it will absorb \$3,000,000; this will be from January 1, 1920, on; and adding to this sum \$1,800,000 for interest, the burden upon the Treasury will be \$4,800,000. As this will be payable after January 1, 1920, when under the terms of the law amortization begins, we shall probably have peace, international trade will have been renewed with competition reestablished, prices will have declined, and all materials required for the public service such as fuel, forage, foods, etc., will have become considerably cheaper; the equilibrium of the budget, even taking into account the increasing demands of public instruction, public works, sanitation, justice, etc., will have been assured, and the Cuban Government will take care of all its obligations with the assurance, order, and method heretofore observed, and which have raised the public credit to a high level.

The same thing will happen in the case of these new taxes as in the case of former taxes; there are no special funds in the Cuban Treasury; the unity of the Treasury is a fact which has subsisted throughout all the vicissitudes of the last 20 years, as well during the military government of Cuba by the United States from 1899 to 1902, as during the presidential term of Estrada Palma, and then under the provisional government of Cuba by the United

States, and from the presidency of General José Miguel Gomez down to the present time.

The new bonds will have the same guarantee as those of 1904 and subsequent issues; that is to say, the good faith of the Cuban Government and the solvency of the Cuban Treasury.

I enclose a copy of the *Boletin Oficial* of this Department, wherein is printed the text of the law of July 31, 1917.

I shall be pleased to give any further information.

Your obedient servant,

LEOPOLDO DE CANCIO

File No. 837.51/310

The Minister in Cuba (Gonzales) to the Secretary of State

No. 630

HABANA, May 9, 1918.

SIR: I have the honor to transmit herewith in duplicate translation of note No. 417, dated May 8, 1918, from the Cuban Secretary of State, in regard to the loan of \$15,000,000. This note is in answer to the Department's telegraphic instructions of April 5, 6 p. m., and April 20, 6 p. m., and a résumé of which was in my telegram of May 9, 11 a. m.¹

I have [etc.]

WILLIAM E. GONZALES

[Enclosure—Translation]

The Cuban Subsecretary of State (Patterson) to the American Chargé in Cuba (Scholle)

No. 417

HABANA, May 8, 1918.

MR. CHARGÉ D'AFFAIRES: In connection with the plenipotentiary powers conferred by the President of the Republic upon the Minister of Cuba in Washington for contracting a loan with the Government of the United States of America, I have the honor to inform you that the Secretary of the Treasury makes the following statement in a communication to this Department dated May 6:

In reply to your communication of the 16th ultimo transcribing a note from the Chargé d'Affaires of the United States of America dated the 15th, relative to the powers conferred by the President of the Republic upon the Minister of Cuba in Washington for contracting a loan with the Government of that Nation.

The powers conferred upon the Minister of Cuba in Washington by presidential decree of March 13, 1918, were delegated by the authority of the President of the Republic in accordance with Article 68, Section 1, of the Constitution of the Republic of Cuba in connection with the act of the Cuban Congress of July 31, 1917. The President having been authorized by that act to issue bonds in the sum of \$30,000,000 under terms therein prescribed; authorized likewise to sell or hypothecate said bonds for the purposes mentioned in the law; it is evident that he may issue such decrees as he shall deem necessary to execute said law or cause it to be executed, and consequently that he may empower the Minister of Cuba in Washington to negotiate a loan not to exceed \$15,000,000 with the Government of the United States and to receive moneys tendered him on account of said loan, giving in guarantee or hypothecating bonds of Series A authorized by the aforesaid law of July 31, 1917; no further ratification being necessary, for the transaction is consummated by the delivery of the money and the receipts issued by the Treasurer of the Republic as (partial) sums are received from the Government of the United States on account of the loan.

I renew [etc.]

G. PATTERSON
Subsecretary.

¹ Not printed.

File No. 837.51/312

The Minister in Cuba (Gonzales) to the Secretary of State

[Telegram]

HABANA, June 5, 1918, 6 p. m.

Your cables April 9, 13, 20, and May 23, 6 p. m.¹ Have just received from Secretary Foreign Affairs report from Secretary of Treasury of Cuba: Report "relative to data desired by Department of State at Washington in regard to budget for 1917-18 in connection with proposed budget for 1918-19 now before Congress." The report follows:

The budget for the ensuing fiscal year is divided into four parts, namely:

Fixed or permanent charges; annual or ordinary expenses, including continuous and recurring charges arising from organic laws and from recognized and unavoidable needs; additional charges including works in course of execution which may be suspended or deferred; discretionary charges for improvements needed in the public service or interest but which may be deferred, decreased, or abandoned altogether in the face of emergencies in the national life or of discrepancy between a revenue and expenditures; and lastly, a special section embracing all outstanding appropriations for works and services authorized for payment of surplus revenue not otherwise appropriated, and unforeseen or emergency expenses which may arise from the war.

The first three sections, that is to say, the fixed budget, the annual or ordinary budget, and the additional budget, are balanced by revenue authorized by the tax system of the State including the taxes authorized by the act of July 31, 1917; and the extraordinary budget is based on proceeds from issue of bonds and any surplus revenue which there may be.

BUDGET OF EXPENSES—FIXED BUDGET

Judicial branch-----	\$2, 420, 844. 26
Legislative branch-----	1, 541, 438. 00
National debt-----	6, 044, 210. 00
Total-----	\$10, 006, 492. 26

ANNUAL BUDGET

Department of Agriculture-----	\$1, 402, 280. 00
Department of State-----	1, 263, 660. 13
Department of Justice-----	267, 360. 00
Executive Power-----	209, 620. 00
Department of Public Instruction-----	9, 256, 410. 00
Department of Public Works-----	6, 846, 340. 00
Department of Sanitation-----	5, 994, 526. 86
Department of Government-----	6, 071, 071. 26
Department of War and Marine-----	8, 896, 983. 83
Treasury Department-----	4, 029, 068. 25
Total-----	² \$44, 237, 320. 59

ADDITIONAL BUDGET

Department of Government-----	\$204, 675. 00
Department of War and Marine-----	6, 202, 187. 13
Treasury Department-----	563, 204. 00
Grand Total-----	² \$61, 263, 204. 00
Grand Total-----	² \$61, 213, 878. 98

¹ Cable of May 23 not printed.

² There is a slight discrepancy in the above totals, due undoubtedly to error in transmission.

Revenue having been estimated in the sum of \$62,760,000 and expenses in the sum of \$61,213,878.98, the estimated surplus is \$1,546,121.02. This surplus will be held as an offset to claims pending adjustment and settlement for funds seized and appropriated by revolutionists from the several public treasuries.

EXTRAORDINARY BUDGET

Public Instruction-----	\$825, 000
Public Works-----	8, 802, 606
Sanitation-----	109, 684
Total-----	¹ \$9,737, 291

Comparing the budget for the present fiscal year with the proposed budget for the ensuing fiscal year, the latter shows an increase of \$17,060,677.32 distributed over the sections enumerated, there being included in the \$6,044,210 apportioned to the amortization and payment of interest on the public debt, the sum of \$1,800,000 for interest on the bonds of the \$30,000,000 loan authorized by the law of July 31, 1917, which bonds are not yet on the market but may be sold in the course of the year.

The reason for increasing the public expenditures during the ensuing fiscal year is explained along general lines in the preamble to the budget for the fiscal year 1918-19, and in more detail in the estimates of each Department comprised in the budget.

The report is signed by Secretary Cancio.

GONZALES

File No. 837.51/315

The Minister in Cuba (Gonzales) to the Secretary of State

No. 708

HABANA, July 18, 1918.

SIR: In reply to the Department's instruction No. 573² dated June 25, 1918, and received the 13th instant. I have the honor to report that it is not proposed to lend to the United Railways of Habana any money out of the \$15,000,000 borrowed by Cuba from the United States.

After President Menocal had made considerable loans or advances to the Cuba Railroad, and smaller amounts to other railroads that had suffered in the last revolution, Congress authorized the Government to make advances to railroads in distress, and for the benefit of the country, not exceeding \$10,000,000. The available funds were the Treasury bonds remaining of the authorized \$30,000,000 issue. The Cuba Company has received in cash and in bonds \$3,000,000, and is asking for more. The United Railways of Habana asked for a loan of \$5,000,000, and the President tells me that he has consented, after a thorough investigation into their needs, to lend them \$1,000,000 in Cuban bonds.

I have [etc.]

WILLIAM E. GONZALES

File No. 837.51/322

The Cuban Minister (De Céspedes) to the Secretary of State

No. 162

WASHINGTON, August 14, 1918.

MY DEAR MR. SECRETARY: I beg to call your excellency's high attention to the favorable situation disclosed by the various state-

¹ There is a slight discrepancy in the above total, due undoubtedly to error in transmission.

² Not printed.

ments of the Department of Finance of the Republic of Cuba which I have had the honor of presenting to the State Department.

Notwithstanding the considerable extraordinary expenses that the Cuban Treasury has been called upon to face during the last fiscal year, ending June 30, a balance to the credit of that Department results from its accounts for 1917-18, largely superior to the likewise favorable balance of the previous year.

The expenses legally established by the budgets have been duly attended to and the products of our tributary system have enabled the Government to make important advances to the railroads, cover many extraordinary war, naval, and police expenditures, and fulfil its general financial obligations.

Worthy of special mention is the fact that the Interior revenues alone—among which the taxes established by the law of July 31, 1917, are permanently included—have produced over \$10,500,000 without reaching their complete liquidation for the year. The customhouse duties have not abandoned their tendency to produce higher revenues, the upward trend of these contributions having been maintained.

In the new budget for 1918-19, as has been set forth in detail by the Secretary of Finance of Cuba, the provisions necessary to meet the interest of the \$30,000,000 loan authorized by the law of July 31, 1917, are comprised among the items of the permanent or fixed budget, according to the second paragraph of Article 59 of the Constitution of Cuba, that are virtually preferential among all the expenses of the Republic. The returns shown by the taxes established by said law amply provide for all such payments as are constitutionally required of them, and, as ordinary taxes, they are all of a nature to justify the presumption of still greater returns for the future.

For your excellency's information, I might say that after the expenses included in the permanent or fixed budget, come those of the general budget for the current year, and successively, all other expenses that may be authorized by Congress in the order stated by the Secretary of Finance.

It is to be noticed that in our system the expenses voted in the annual fixed and general budgets must be paid out of the national revenues with preference to all other payments, and that a penalty is attached to the application to other purpose of the revenues voted for said budgets.

The funds required by acts of Congress increasing national expenditures or providing for special disbursements are taken from the surplus funds of the Treasury not affected to other attentions, and should such expenditures be established as regular services, it is invariably legislated that they be paid from those unaffected funds and made to figure in the budget of the ensuing year, which may, of course, reduce or suppress them altogether when the reduction or suppression does not infer legislative or administrative reforms of another order, according to Article 60 of the Cuban Constitution.

This has enabled the Government to increase the expenses wherever necessary without recurring to income taxes up to this moment or affecting the soundness and constitutionality of our finances, and, on the contrary, maintaining and safeguarding the preferential character

of interests and amortization of our various loans, as also insuring the current expenses of the Government. Within this system, as is shown by the data submitted, the Government has attended to a great many of the extraordinary expenses made necessary by the war; but it was, above all, with the object of not injuring the sound financial situation of the Republic, and in view of the expenses that certainly would and did occur after the declaration of war, that authority was given for the thirty million Treasury bond issue of which the United States Government has already taken \$5,000,000 as security for a loan of \$5,000,000, which was granted by the United States Treasury to the Cuban Government, out of a credit of fifteen millions made to the Republic of Cuba.

Whatever the Cuban Government's future obligations may be in the war with the Imperial German Government and the Imperial Government of Austria-Hungary, the idea that they will exceed our financial capacity should not be entertained nor could it be considered, however great our will to serve may be, as our participation in the war must, constitutionally, be limited by our effective or available resources after taking care of our foreign and domestic loans and the current requirements of our own Government, as set forth in the budget of the Republic. Under these conditions and those already exposed, the existing guarantees of every kind, both legal and financial, should be more than sufficient to establish the perfect security of the bonds authorized by the law of July 31, 1917.

I am able to point out, however, as an illustration of the economic policy of General Menocal, that he has recently vetoed certain laws increasing the salaries of public officials and employees, with the object of maintaining the expenses of the Republic within a prudent limit that will allow Cuba to meet her obligations with the United States and her other allies in the war, in accord with her desire to cooperate and relative power to do so, and that those laws were vetoed notwithstanding the fact that said increase would have not been so insupportable due to the growth of the revenues, as it was effectively discounseled, at this time, by a spirit of high prevision.

For further information on these subjects, I pray to refer your excellency to the memorandum furnished by the Secretary of Finance to the United States Minister in Habana.

With the assurances [etc.]

CARLOS MANUEL DE CÉSPEDES

File No. 837.51/319

The Secretary of State to the Secretary of the Treasury (McAdoo)

WASHINGTON, August 19, 1918.

SIR: Referring to your letter dated March 9, 1918, wherein you state that the Treasury Department is prepared to advance certain funds to the Government of Cuba as soon as the Department of State advises the Department of the Treasury that the Republic of Cuba has the power to incur the indebtedness, I have the honor of informing you that after a most careful consideration of the entire question, it would appear, that although the prospect of a growing increase in current expenditures due to prevailing conditions brought about by the war, as shown by the figures on the reports submitted,

do not place the proposed loan in a favorable light; however, the increase in revenues provided by the additional taxes laid under the law of July 31, 1917, should be ample to care for the loan, were proper restrictions provided to keep the expenditures within the estimates submitted.

In this connection it gives me pleasure to enclose for your consideration, a copy of the note dated August 13 [14], 1918, received by the Secretary of State from the Cuban Minister in Washington.

In view of this note and after careful consideration of all the circumstances, I am of the opinion that your Department would, in the present situation, be warranted in making further advances to the Cuban Government on the proposed loan of \$15,000,000 (inclusive of the \$5,000,000 already advanced to Cuba), unless it should appear in the meanwhile that the expenditures of Cuba are not being kept within the actual or estimated revenues of the Island. Consequently before making advances after the one now to be made, I should be pleased to be notified in order that I may have opportunity to ascertain whether the financial situation in Cuba would make a further advance inadvisable.

I have [etc.]

ROBERT LANSING

File No. 837.51/322

The Secretary of State to the Cuban Minister (De Céspedes)

WASHINGTON, August 20, 1918.

MY DEAR MR. MINISTER: Referring to your note of August 14, 1918, and previous correspondence, I have the honor to inform you that the data which has been submitted to the Department by the Cuban Government in respect to financial conditions in Cuba, has been the subject of careful examination by this Government, and as a result thereof it would appear to be within the ability of the Government of Cuba to meet the interest on the proposed bond issue from "its ordinary revenues," as provided by the treaty between Cuba and the United States of 1903, provided the current expenditures of the Government of Cuba are not unduly increased and are kept within the actual revenues of the Island. I am pleased, therefore, to inform you that I have to-day recommended to the Secretary of the Treasury that a further advance on the proposed loan of \$15,000,000 be made to your Government.

I am [etc.]

ROBERT LANSING

File No. 837.51/323

The Secretary of the Treasury (McAdoo) to the Secretary of State

WASHINGTON, August 26, 1918.

DEAR MR. SECRETARY: I received your letter of August 19 concerning loans to Cuba. I am glad to have your views therein contained, which I understand to mean that the loan of \$5,000,000 heretofore made and the loan of \$5,000,000 now contemplated will be within the limitations of the Platt amendment. I shall not fail to consult you before making any further advances to Cuba so that you may give

due consideration in connection therewith to the then relation of the expenditures of the Republic of Cuba to its revenues.

In addition to the advice which you have given me, I feel I ought to ask you whether, in the opinion of the Department of State, the necessary formalities have been complied with so that the obligation of the Cuban Government, when executed by the Cuban Minister in Washington in conformity with the documents furnished to you, will be regarded by the Department of State as valid and binding internationally and will have its sanction. In that connection I enclose herewith a copy of a letter, dated June 19, which Mr. Leffingwell wrote you by my direction, indicating my view that such advice as this is necessary for the protection of the United States and the reasons for that view.¹

I am [etc.]

W. G. McADOO

The Secretary of State to the Secretary of the Treasury (McAdoo)

WASHINGTON, September 9, 1918.

DEAR MR. SECRETARY: I have received your letter of August 26 with respect to the Cuban loan, in which you state that in addition to the advice which has already been given you, you feel that you should ask whether, in the opinion of the Department of State, "the necessary formalities have been complied with, so that the obligation of the Cuban Government, when executed by the Cuban Minister in Washington in conformity with the document furnished to you, will be regarded by the Department of State as valid and binding internationally, and will have its sanction."

By way of reply, I beg to advise you that under the act of the Cuban Congress of July 31, 1917, in pursuance of which the proposed loan is being contracted by the Cuban Government, the question as to the legality of the second advance of \$5,000,000 to the Cuban Government at this time is so coupled with and contingent upon the existing state of the Cuban Treasury, that it is extremely difficult to advise you precisely that as a matter of law all necessary formalities have been complied with. However, it was intended by the letter of August 19, 1918, to inform you that, in the opinion of this Department, the Treasury Department is warranted in making further advances to the Cuban Government on the proposed loan to the extent of \$5,000,000 in addition to the \$5,000,000 already advanced, and that, in the judgment of this Department, obligations of the Cuban Government up to that amount, when executed by the Cuban Minister in Washington, will be regarded by the Department of State as valid and binding internationally and will have the sanction of this Department.

I also take this occasion to renew the request that before making further advances to the Cuban Government on the proposed loan of \$15,000,000, I may be notified sufficiently in advance to enable me to ascertain whether or not the financial situation in Cuba would make a further advance legal and advisable.

Very sincerely yours,

ROBERT LANSING

¹ Not printed.

File No. 837.51/326

The Assistant Secretary of the Treasury (Rathbone) to the Counselor for the Department of State (Polk)

WASHINGTON, October 17, 1918.

DEAR MR. POLK: I enclose to you herewith copy of a letter from the Cuban Minister to the Secretary of the Treasury, dated October 11, 1918, in relation to an advance in the amount of \$7,200,000 which the Government of Cuba has requested of the Secretary of the Treasury in addition to the advance made last March of \$5,000,000, being the first advance to the Cuban Government under the credit of \$15,000,000 established in favor of that Government by the Secretary of the Treasury. By communications, dated respectively August 19, 1918, and September 9, 1918, the Secretary of State advised this Department in relation to the authority of the Cuban Government to borrow a second amount of \$5,000,000 on account of said \$15,000,000 credit. In the first of these letters the Secretary of State advised that he was of the opinion that this Department would be warranted in making further advances to the Cuban Government unless it should appear in the meanwhile that the expenditures of Cuba were not being kept within the actual or estimated revenues of the Island. In the second of these letters the Secretary of State asked that before this Department make further advances (other than the \$5,000,000 advance then and now under consideration) under the said credit of \$15,000,000, he be notified sufficiently in advance to enable him to ascertain whether or not the financial situation in Cuba would make a further advance legal and advisable. In view of the time that has elapsed since the receipt of these letters I am led to ask whether in the judgment of the Department of State the second advance of \$5,000,000 under said credit can be legally made during the current month.

While the account set forth in the letter of the Cuban Minister enclosed herewith shows expenditures made and to be made aggregating \$12,197,090.72, of this sum \$1,500,000 is represented by the Series B bonds of the Government of Cuba, and does not therefore represent any past or immediate cash expenditure. In these circumstances, in the judgment of this Department a present advance of \$5,000,000 to the Cuban Government will meet its immediate cash requirements in respect of the expenditures set forth in the letter of the Cuban Minister.

In a letter dated December 1, 1917,¹ the Secretary of State advised this Department that the American Minister to Cuba, under instructions from the Department of State, had especially recommended to the Cuban Government that a certain portion of the proposed loan from the United States Government, roughly in the neighborhood of \$3,000,000, should be set aside for the purpose of establishing a credit in favor of the Cuba Railroad upon its guaranty to expend these moneys in the necessary improvements of roadbed and additions to their rolling stock and in repairing the damages done to the road

¹ *Ante*, p. 314.

during the last revolution. The account set forth in the enclosed letter shows that part of the relief extended to the Cuba Railroad by the Cuban Government was through the issue to it of the Series B bonds of the Cuban Government. I shall be obliged if you will inform me whether in the opinion of the Department of State the United States Government is under any obligation to see that any other or additional aid is given to the Cuba Railroad from advances made to the Cuban Government by the Secretary of the Treasury.

Referring to our conference of this afternoon, for the reasons there discussed it may become advisable for the Secretary of the Treasury to advance to the Cuban Government, in addition to the \$5,000,000 advance now being arranged, a further sum of indeterminate amount—possibly \$20,000,000 or possibly more—establishing so far as necessary credits in favor of the Cuban Government for the purpose of making such advances. As it may become advisable, for political, military, and financial reasons, that this advance when required should be made without delay, I take this opportunity of inquiring whether in the opinion of the Department of State the necessary formalities have been complied with so that the obligations of the Cuban Government in respect of advances in addition to the \$5,000,000 advance now in contemplation, when executed by the Cuban Minister to Washington in conformity with the documents furnished to you, would be regarded by the Department of State as valid and binding internationally and will have its sanction.

I am [etc.]

ALBERT RATHBONE

[Enclosure]

The Cuban Minister (Dc Céspedes) to the Secretary of the Treasury (McAdoo)

WASHINGTON, October 11, 1918.

MY DEAR MR. SECRETARY: I am authorized and instructed by my Government to respectfully request a further loan of \$7,200,000 of the credit of \$15,000,000 made by the United States Government to the Republic of Cuba with which to aid in meeting her extraordinary obligations created by the state of war with the Imperial Governments of Germany and Austro-Hungary.

The first \$5,000,000 received from the United States Treasury by the Republic of Cuba were turned over integrally to the Cuban Treasury (minus charges amounting to \$20,000) to refund the sums advanced to the railroads and for extraordinary war expenses incurred in partial payments of the various items included in my memorandum addressed to you.

Of the \$7,200,000 now requested, more than five millions have been already advanced in a like manner by the Cuban Treasury, and are to be refunded to said Treasury to cover the deficit now naturally existent, due to its having had to advance payments, out of its ordinary resources for current expenses, of the extraordinary war obligations for which a loan was authorized by the law of July 31, 1917.

In the following account, that embraces the five millions received and the \$7,200,000 I have the honor to request, you will observe that the Cuban Government has already advanced to the Cuba Railroad Company \$3,000,000 and \$690,000 to other railroads in order that they might be in condition to transport the last sugar crop, as interested by the State Department. I am sending you herewith a report issued by the Cuba Railroad Company in which they make known not only the financial aid given them but also the full protection that their property is receiving from the Cuban Government.

The account referred to above is as follows, according to the data sent me by the Secretary of Finance:

91114°—30—29

ADVANCES TO THE RAILROADS

Cuba Railroad Company-----	\$1, 000, 000. 00
Ferrocarril de Cuba (owned by the Cuba Railroad Company)-----	500, 000. 00
Cuba Railroad Company (in bonds of the Series B., to be refunded to the Treasury)-----	1, 500, 000. 00
Guantanamo Western Railroad Company-----	120, 000. 00
Empresa Ferrocarril de Guantanamo-----	60, 000. 00
North Coast Railroad Company (Caibarien to Nuevitas)-----	510, 000. 00
	<hr/>
	\$3, 690, 000. 00

WAR EXPENSES

Repairs of the cruisers <i>Patria</i> and <i>Baire</i> and transport <i>Kydonia</i> -----	240, 724. 92
Wireless for cruiser <i>Baire</i> and gunboat <i>Mayari</i> -----	8, 754. 30
War material for the Army and Navy-----	485, 455. 73
Establishment of Military Hospital-----	30, 000. 00
Reorganization of the Navy-----	434, 044. 00
War censure-----	214, 493. 32
Wireless stations, towers, telegraphic outfits, construction of lines-----	227, 618. 45
Reorganization of the Army-----	5, 866, 000. 00
For the immediate requirements of the draft under the Obligatory Military Service Law-----	1, 000, 000. 00
	<hr/>
[Grand total]-----	\$12, 197, 090. 72

The Secretary of Finance has expressed to me the hope that the further advance now requested may be granted at the earliest possible moment, as the Cuban Government does not dispose of any other funds with which to pay these extraordinary obligations and the existent deficit is creating a very serious and embarrassing situation to the Cuban Government.

With the assurances [etc.]

CARLOS MANUEL DE CÉSPEDES

The Secretary of State to the Secretary of the Treasury (McAdoo)

WASHINGTON, October 29, 1918.

SIR: I have the honor to acknowledge the receipt of your letter of October 17, 1918, relating to the advances by this Government to the Government of Cuba and enclosing a copy of a letter to you from the Cuban Minister, dated October 11, 1918, in reference to the sum of \$7,200,000 which the Government of Cuba has requested you to advance at once.

In your letter you refer to communications from this Department, dated respectively August 19, 1918, and September 9, 1918, wherein you were advised that, in the opinion of this Department, you would be warranted in making further advances to the Cuban Government, unless it should appear in the meanwhile that the expenditures of Cuba were not being kept within the actual revenues of the Island, and were further advised that a second advance of \$5,000,000, on account of the total credit of \$15,000,000, was justified at that time. You now ask, in view of the time that has elapsed since the receipt of those letters, whether, in the judgment of the Department of State, the second advance of \$5,000,000 under said credit can be legally made during the current month.

In reply to your inquiry you are advised that in the judgment of this Department, the Treasury Department is warranted in making further advances to the Cuban Government on the proposed loan to the extent of \$5,000,000 at this time.

You also refer in your letter of October 17, 1918, to a letter from this Department, dated December 1, 1917,¹ advising you that the American Minister to Cuba had, under instructions from the Department of State, specially recommended to the Cuban Government that a certain portion of the proposed loan should be set aside for the purpose of establishing a credit in favor of the Cuba Railroad, and you ask whether in view of the account set forth in the letter to you from the Cuban Minister, dated October 11, 1918, showing that a part of the relief extended to the Cuba Railroad by the Cuban Government was through the issue to it of the Series B bonds of the Cuban Government, the United States Government is under any obligation to see that any other or additional aid is given to the Cuba Railroad from advances made to the Cuban Government by the Secretary of the Treasury. The information set forth in the account enclosed in the letter from the Cuban Minister has been confirmed by a cablegram received to-day from the American Legation at Habana, wherein it is stated that the President of the Railroad Company considers that the Cuban Government has fully performed its part. In the opinion of this Department, therefore, the United States Government is under no further obligation to see that the Cuba Railroad receives any other or additional aid from advances made to the Cuban Government by the Treasury Department.

The matter of the further sum, of indeterminate amount, possibly \$20,000,000 or possibly more, to which you refer, is now receiving the consideration of this Department.

I have [etc.]

For the Secretary of State:

FRANK L. POLK
Counselor

SUGAR PRODUCTION IN CUBA

Arrangement with the International Sugar Committee Fixing the Price of Sugar; Good Offices of the United States; Financial Assistance to Sugar Producers; Measures Taken to Prevent the Destruction of Sugar Factories

File No. 837.61351/47a

The Secretary of State to the Food Administrator (Hoover)

WASHINGTON, September 5, 1917.

SIR: You are informed that the Cuban Minister called at this Department and stated that his Government was informed that it was the purpose of the United States Food Administration to fix a price for sugar, and that his Government had instructed him to request that no definite action be taken in this respect until after the Cuban Government had been given an opportunity to acquaint

¹ *Ante*, p. 314.

the Food Administration of its views on this subject. The Cuban Minister added that he was prepared at any time to discuss this matter with you.

The Cuban Minister was informed that his Government's request would be communicated at once to you.

I am [etc.]

For the Secretary of State:

ALVEY A. ADEE

Second Assistant Secretary

File No. 837.61351/43

The United States Food Administration to the Chief of the Latin American Division of the Department of State (Stabler)

WASHINGTON, September 27, 1917.

DEAR SIR: We are enclosing herewith copy of an article which will be released to the press on September 30, stating the entire plan of the Food Administration in regard to sugar.

As this article embodies the views of the administration with regard to the handling of the Cuban crop, we feel it will be of interest to you, in view of the fact that you have been appealed to by the Cuban Minister.

Yours very truly,

U. S. FOOD ADMINISTRATION
Per GEO. M. RALPH

[Enclosure]

Article released to the press on September 30, 1917, by the Public Information Division of the United States Food Administration

The United States Food Administration issues the following:

Sugar represents an entirely different problem for the Food Administration from almost any other commodity it has to handle, in view of the fact that about 50 per cent of the sugar we consume is imported from foreign countries.

It might be interesting to know that the entire domestic production from Louisiana, Hawaii, Porto Rico, and domestic beet follows the general trend of prices as established in the New York market. The New York price is based generally on the price of Cuban centrifugal, to which is added the duty of one cent and the refiner's differential. The Cuban sugar, therefore, becomes the dominating factor, and the domestic products follow and meet this competition. The domestic producers do not raise sufficient supplies for the United States, causing the Cuban sugar to become the predominating feature and actually control the price in the United States.

It is the intention of the Food Administration to enter into negotiations with the Cuban Government and the Cuban planters to see if a voluntary agreement cannot be reached fixing a price for Cuban sugars in New York that will be satisfactory to the Cuban producers and at the same time insure a fair price for the consuming public in the United States. The Administration has every reason to believe that such a voluntary agreement can be effected.

In order to handle the situation and arrange for the distribution of the available sugar in the world, an international sugar committee of five members has been formed. Two of the members of this committee were appointed by the Allied Governments, and the men selected for this important work are Sir Joseph White-Todd and John R. Drake, both of whom are familiar with the sugar situation. The two American members of the committee appointed by the Food Administration are Earl D. Babst, president of the American Sugar Refining Co., and William A. Jamison of Arbuckle Bros., neither of whom is interested in any way in the production of Cuban sugar. Mr. George M. Ralph,

head of the sugar division of the Food Administration, will be the fifth member of the committee.

It will be the duty of this committee to arrange for the purchase and distribution of all sugar, whether for the United States or the Allied countries.

There will also be a committee of American refiners consisting of: Mr. C. A. Spreckels, New York; Mr. Jas. H. Post, New York; Mr. C. M. Warner, New York; Mr. Geo. H. Earle, jr., Philadelphia; Mr. Dwight P. Thomas, Boston, which has been formed to cooperate with the international committee with the idea of assisting in the distribution of that part of the imported sugar that comes to the United States refineries.

The three American members of the international committee will serve as a subcommittee to handle and decide purely domestic questions with which the Allied members are not concerned.

Conferences held in Washington and New York between representatives of the entire sugar refining industry of this country and the Food Administration have resulted in a voluntary agreement for the duration of the war. Refiners will undertake not only to obtain their supplies of raw sugar under the direction of the International Sugar Committee, but they also have agreed to work on a stipulated margin between the cost of raw sugar and the selling price of refined, thus limiting profits and going a long way towards stabilizing prices and eliminating speculation.

This cooperative buying between the refiners, and those purchasing raw supplies for England, France, Italy, and Canada, with the resultant elimination of competitive buying, is expected to save consumers many millions of dollars, and to prevent the rapid fluctuations in prices that we have seen since the outbreak of the European War in 1914. The natural channels of trade were then suddenly disrupted, and a large part of the world's available supply of sugar was cut off, due to the fact that the Central powers were no longer exporters. This was followed by a reduced production of sugar in France, Belgium, and Russia, leaving the world with a decreased sugar supply, but without any corresponding decrease in consumption. Sugar producers were then in a position to exact high prices, but now, through governing regulation, it is intended that consumers' interests shall be protected, in an effort to combat the old laws, based only on supply and demand.

As a step in this process, refiners have agreed to refine sugar on a net margin between the cost of their raw material and the selling price of their refined product of approximately 1.30 cents per pound after trade discounts have been deducted. The basis for this margin had its origin in the five-year pre-war period. The figure was arrived at by taking the average margin for five years previous to and including 1914, and adding the increased cost of operation which refiners must now face. For example, in refining sugar there is a loss in weight of about 7 pounds on every 100, and as raw sugar is expected to cost in round figures about 2 cents per pound more than in the five-year pre-war period, this alone amounts to an increased cost of 14 cents per 100 pounds. Bags, jute, and cotton have increased in price equivalent to about 15 cents per 100, coal 5 cents, labor 8 cents, bone black 2 cents. These increases, added to the old pre-war basis, bring the figure up to 1.281 cents, so that in selling on a margin of 1.30 cents net, only .019 cents per pound has been left to cover the increased cost of lighterage and cartage, added interest on the larger amount of money invested in the business, increased insurance, due to explosion risks and the higher valuation of sugar, as well as the higher cost of all materials used in the refineries. Of course, this small fraction will not cover these increased costs, so it will be seen that notwithstanding the fact that the differential is higher than formerly, the actual net margin of profit left to refiners is about the same as the pre-war basis. Their advantage must come mainly through ability to run their plants at full capacity for nearly the entire year, due to the large increase in export business which is now obtainable.

The Food Administration is naturally much gratified in securing this cooperation, as through it an important step had been taken to eliminate speculation and place values on a stable basis, the effect of which will be more apparent during the latter part of this year and in 1918 when new sugar crops come on the market.

Within a short time conferences between representatives of the Cuban Government, Cuban planters, and the Food Administration will be held, and the price to be paid for Cuban sugar for the next crop, which begins in December, will be considered.

The cost of producing sugar in Cuba has advanced greatly within the past three years due to increasing cost of labor, increasing cost of all kinds of supplies, increased freight rates, cost of bags, and increased taxes. These conditions will naturally be taken into consideration by the administration in agreeing on a price with the Cuban planters, as it is essential that fair profits be allowed to all producers in order that production be not discouraged. Increasing the production of sugar to-day is just as important, if not more so, than reducing the price to the consumer, as our allies fighting in the trenches of Europe must be kept supplied with an adequate amount of this most important food product.

The refiner sells his product to the wholesale grocery jobber through a broker, and in turn the jobber sells to the retail trade. The margin of profit for the jobber and the broker, like that of the refiner, will be limited by the Food Administration to an amount that will represent a reasonable charge for the services performed. By these regulations and agreements the Food Administration hopes to eliminate speculation and to deliver sugar into the hands of the retail trade at a fair cost based upon the present cost of production, manufacturing, and distribution. There the Food Administration's control stops and it will be necessary for the consuming public to see that they obtain their sugar at a proper price from the retail trade. The administration will assist in every way through publicity in keeping the country posted as to what the retailer should charge in the various sections of the United States. It will be up to the consumer to do the balance.

Inasmuch as the price of Cuban sugar on the New York market really controls the entire domestic production, it was not the intention of the administration to attempt in any way to regulate domestic producers.

A situation arose in June and July which made such action imperative. Bills were introduced in Congress providing for the elimination of the drawback on export sugar, and the application of a consumption tax. Foreign buyers, who up to that time had been making their purchases through American refineries, decided that as the bills were introduced as war measures, and would therefore be enacted into law promptly, it would be to their advantage to buy Cuban sugars direct at any price from the then Cuban market, not exceeding an advance of $1\frac{1}{2}$ cents which was the extent to which sugar would have been affected if the bills had passed.

This started a violent speculation in Cuban sugars, with the result that the price advanced from 5.77 in the last week in June to 7.77 the first week in August. While there was very little sugar left in Cuba, it meant that if such a condition was permitted to continue, the cost to the American public would be something in excess of \$30,000,000 between then and the beginning of the new Cuban crop in December.

Refined sugar naturally followed raw, and quotations advanced to as high as \$9.15 per 100 pounds. To protect the public against these unnatural, unnecessary, and speculative prices, the Food Administration immediately changed its policy and made a direct appeal to the domestic beet-sugar producers to come to the aid of the country with their product. In August representatives of 85 per cent of the domestic beet-sugar industry met with the Food Administration in Washington and pledged the interests which they represented to maintain a price for their product of not to exceed 7.25 cane basis seaboard refining points, from the beginning of the crop, starting in October, until same had been distributed. Announcement of this fact had the immediate effect of stopping the speculation in Cuban sugars and of reducing the price generally throughout the country to more normal levels. The main thing that it accomplished, however, was that it stopped further speculation and prevented the price to the American consumer reaching much higher levels. If the speculation in Cuban sugar had not been checked, it is not unreasonable to believe that sugar would have been selling wholesale to-day at prices ranging anywhere from 10 cents to 12 cents a pound. This alone demonstrates conclusively the value of a domestic-grown product to the United States. Too much emphasis can not be placed on this fact, and the attention of the American public should be directed to this most important industry.

Aside from Louisiana cane representing about one-third of the beet production, and combined with the beet representing a total production of a little over 1,000,000 tons, there is no sugar that would be available for consumption in the United States if our coasts were blockaded by foreign powers, as Germany's now are. This 1,000,000 tons of domestic production represents less than 25 per cent of the consumption of the country. It is evident, therefore,

that every encouragement should be given to this, one of our most important domestic industries.

Immediately after the conferences with the beet producers in August a conference was arranged at which representatives of 100 per cent of the domestic industry were invited to attend, in order that action on part of the industry might be made unanimous. Conferences between the Food Administration and all the beet producers of the United States have been held in Washington during the past few days, and it is gratifying to the Government and the Food Administration to say that 100 per cent of the beet producers of this country, representing many different states in the Union, have voluntarily entered into an agreement with the Food Administration whereby and under which the sale and distribution of the entire beet sugar produced in the United States is placed in the hands of the Food Administration, to be sold at a price not exceeding 7.25 cane basis seaboard refining points.

The Food Administration has appointed the following committee to handle the details of the distribution of the beet sugar to be known as the Food Administration Sugar-Distributing Committee: H. A. Douglass, Detroit, Mich.; E. C. Howe, Denver, Colo.; W. H. Hannam, San Francisco, Calif.; S. H. Love, Salt Lake City, Utah; W. S. Petriken, Denver, Colo.; S. W. Sinsheimer, Huntington Beach, Calif.; W. P. Turner, Detroit, Mich.

The Western Sugar Refining Co. and the California-Hawaiian Sugar Refining Co., both located at San Francisco, Calif., have notified the Food Administrator that while it will result in tremendous losses to their interests, they will join with the beet producers of the country and make the price for cane sugar in the western half of the United States not to exceed 7.25 cane basis seaboard refining points. This links up two of the domestic sugar industries (domestic beet and Hawaiian cane) in meeting the views of the Food Administration, and credit is due the western refiners in complying with the views of the administration. The sugar that these refineries have been receiving, and which they now have on hand, has been purchased on the basis of the price of Cuban sugars in the New York market, and in naming the 7.25 price they are virtually selling their refined product on the basis of what the raws cost them.

As the Colorado-Utah and Michigan beet crops will not be in full swing until the middle of October, and as the time of transportation from the producing centers to the Atlantic seaboard is not less than twenty days, the situation on the eastern seaboard presents a different problem from the West. It is therefore probable that in order to save great loss the eastern refiners will be compelled to maintain present prices for cane sugar until there is sufficient beet available to control the eastern market.

A statement is now being prepared by the administration for the benefit of the sugar trade, giving full information in regard to how the plans of the administration are to be worked out.

As the domestic beet and Hawaiian cane productions are not sufficient to supply the entire United States with sugar, there is bound to be some confusion in certain eastern sections between October 1 and the arrival of the new Cuban and Louisiana crops. Any differences between the price of cane and beet sugars in the eastern markets will be eliminated on receipt of these crops.

File No. 837.61351/51

The International Sugar Committee to the Secretary of State

NEW YORK, October 26, 1917.

DEAR SIRS: I am directed by my committee to suggest the advisability of the arranging of a conference at an early date, not later than Thursday, November 8, with the representatives of the Cuban Government and planters, and to that end it is suggested that delegates thereof to the number of five, should meet the International Sugar Committee at No. 111 Wall Street, to discuss the situation as to the movement of the coming crop.

Yours very truly,

EDWIN T. GIBSON
Temporary Secretary

File No. 837.61351/52

The Cuban Minister (De Céspedes) to the Secretary of State

No. 129

WASHINGTON, October 26, 1917.

MY DEAR MR. SECRETARY: The Cuban Government, having carefully examined the situation of the sugar industry in each of the plantations of the six provinces into which the Republic is divided, has found that the cost of production varies greatly according to their respective standing with regard to the following conditions:

First. Class, quality, state, age, and power of extraction of the machinery employed;

Second. Degree of fertility of the soil, the age and quantity of the cane produced *per caballeria*; the quantity of the cane in relation with the power or size of the machinery;

Third. System of planting—viz., the *colono* system, which consists in the mill acquiring the cane from a number of small planters or farmers, many of whom own their land; or the system of planting at the expense of or directly by the mill's owner on his own land;

Fourth. The cost of labor, now scarce and high; the cost of living, in general excessive;

Fifth. The situation of the mill with regard to the nearest port;

Sixth. Method of hauling the cane to the mill for grinding—transportation;

Seventh. The cost of hardware, fuel, ropes, oils, caustic soda, oxen, carts, and other articles and animals used on the plantation;

Eighth. The cost of bags and storage;

Ninth. The amount of capital invested and interest paid;

Tenth. The taxes.

After investigating each of the preceding factors, the Cuban Government's experts are convinced that there is not only a considerable difference between the cost of production among the plantations themselves in the six provinces, but that general conditions obtaining at present and to prevail during the next 12 months will seriously affect said cost of production, and any calculation based exclusively on what the cost may have been in previous years is not to be considered as reliable.

It is the earnest desire of the Cuban Government to cooperate with the Government of the United States of America in reducing the price of sugar.

This desire is justified by the propose [purpose] of serving the common cause, and at the same time of placing this product in the hands of the American people at a reasonable price.

The Cuban Government believes that the suppression of speculation on sugar affords of itself an important margin of economy, while the fixing of a price on the whole output will increase the benefit to the people of the United States in so much as unjustified profits will be, thereby, curtailed.

The imperative necessity of large crops to satisfy the demands of our allies can only be met by a proportionate and liberal, yet not too high price for raw sugar. The effects of the radical change in the normal system of business, brought about by the war, are in this case factors of more conservative investments, and the element of un-

certainty that exists, as to the results, in the vast employment of capital in any industry under administrative control is an evident drawback when larger production is contemplated and energetic cooperation is required.

Under such conditions it would seem unwise to set a price for the future output of the Cuban sugar industry without taking into consideration the various problems concerned and the interests affected.

From the sources of information that my Government has at its disposal, it has been able to obtain sufficient data to establish that the price of 4 cents 50 f. o. b. in Cuban ports which has been suggested to the planters, in an informal way, does not cover the actual cost of production of many plantations. It would leave a meagre interest to the capital and labor invested in the majority of them and only assure a fair return to those great companies established in the Eastern part of Cuba on virgin soil, or possessing the most modern machinery, vast planted areas of their own, ports, and railroads, and large capitals and financial facilities at low interest.

Cuban planters representing a production of, perhaps, over 2,250,000 tons of raw sugar have addressed the Cuban Government exposing that 5 cents f. o. b. in Cuban ports would be a fair price at which they could consider their industry protected and their expectations satisfied.

After mature examination of the facts, all circumstances taken into consideration, my Government would find it advisable for it to recommend any price ranging from 4 cents 75 to 5 cents per pound, free on board in Cuba ports which would be a reasonable, and, to many, an attractive price, calculated to induce the planters to attain the maximum production; and should not be less considering the risks and other conditions involved.

The political aspect of the question not escaping my Government's review of the matter, I beg your excellency to be good enough as to bring these statements to the attention of Mr. Hoover and the sugar commission with the recommendation that the State Department may hold it convenient to make.

With the assurance [etc.]

CARLOS MANUEL DE CÉSPEDES

File No. 837.61351/51

The Secretary of State to the Cuban Minister (De Céspedes)

No. 187

WASHINGTON, October 29, 1917.

SIR: I have the honor to inform you that I have been requested by Mr. Edwin T. Gibson, temporary secretary of the International Sugar Committee, 111 Wall Street, New York City, to suggest to you, on behalf of the above-mentioned committee, the advisability of arranging for a conference at an early date, preferably not later than Thursday, November 8, between the members of the International Sugar Committee and the representatives of your Government and the sugar planters of Cuba.

Mr. Gibson in his communication to the Department of State further suggests that the delegates to represent the Cuban Government and planters should be five in number, all of whom are authorized to discuss the question of price of sugar.

It is understood that the proposed meeting between the International Sugar Committee and the delegates of the Cuban Government and planters will be held at 111 Wall Street, New York City, at such a time as may be agreed upon.

It will give me great pleasure to communicate to Mr. Gibson any date which you inform me will be satisfactory to you and to your Government.

Accept [etc.]

ROBERT LANSING

File No. 837.61351/53

The Cuban Minister (De Céspedes) to the Secretary of State

No. 134

WASHINGTON, October 31, 1917.

MY DEAR MR. SECRETARY: In reply to your excellency's note in date of October 29, I have the honor to say that the Cuban Sugar Commission will be glad to hold a conference with the International Sugar Commission to discuss the question of the price of sugar as suggested by the latter commission on Thursday, November 8.

In view of the time of arrival of the trains, I beg to propose 3 p. m. as a convenient hour at which the conference could be held.

Accept [etc.]

CARLOS MANUEL DE CÉSPEDES

File No. 837.61351/52

The Secretary of State to the Cuban Minister (De Céspedes)

WASHINGTON, November 8, 1917.

SIR: I have the honor to acknowledge the receipt of your note of October 26, in which you set forth the views of your Government respecting the price of Cuban sugar.

In reply, I have the honor to inform you that the contents of your note have been given the careful consideration of this Government and that it considers that the matter of price should be determined between the buyers and the sellers.

As you have been informed, the American refiners, together with the Allied buyers have now a commission in New York City, and it would appear that the question of price should be determined through negotiations between the sellers and the buyers, under the auspices of this commission.

The Government of the United States is not desirous of establishing a precedent for Government-fixation of prices for imports, as the producers of American foodstuffs may raise the same issue with regard to exports to Cuba.

It would seem to be desirable to point out that the matter treated of in your note is not only dependent on the questions raised by you, but also upon the competition of other sugars with Cuban sugar, and the intention on the part of all the Allied buyers to limit the consumption of this commodity in order to reduce national expenditures.

Furthermore it would appear that there may be a shortage of shipping, so that the entire production can not be moved, and the price might therefore be necessarily of such an attractive character as would induce buyers to hold over a long period.

The Department has been informed that the price stated in your communication is higher than the prices agreed to by the producers of Hawaii, Porto Rico, and the beet-sugar industry, and it would appear to be a higher price than that at which considerable quantities of Cuban sugar can be contracted for from certain producers at the present time.

I also have the honor to add that all the points which have been mentioned above would seem to emphasize the importance of deciding the price for Cuban sugar entirely on its own merits and without Government intervention.

Accept [etc.]

ROBERT LANSING

File No. 837.61351/59

The Cuban Minister (De Céspedes) to the Secretary of State

No. 155

WASHINGTON, November 20, 1917.

MY DEAR MR. SECRETARY: In reply to your excellency's note in date of November 8, I have the honor to say that my Government coincides with the Government of the United States in believing that the price of sugar should be decided entirely on its own merits; but it is in so far as these can be determined without failing to bear in mind that the question exceeds, at present, the proportions of a mere mercantile proposition.

It was not my purpose, however, when speaking for my Government, to ask the Government of the United States to take any specific action in the fixing of the price of sugar. I only desired to beg your excellency to have the views expressed in my note, No. 129 of October 26, 1917, brought before the United States Food Commission, in order that the opinion of my Government, on so vital a subject for Cuba, should be made known to them with the recommendations that the State Department might see fit to express, in view of the great and friendly interest it has always shown in Cuba and in the Cuban sugar industry, or as the result of the data it may have in its possession as a consequence of its recent investigations.

Precisely the fact that the price of Cuban sugar was no longer to be discussed in open market, but fixed by a committee of government officials, in which the Royal Commission of His Britannic Majesty, who also represent Belgium, Italy, and France, are seated under the chairmanship of a distinguished delegate of the United States Food Board, and of which two representatives of the refining interests are members, counselled the Cuban planters to have their views expressed also through government channels, and eventually conveyed to the International Sugar Committee.

Under the circumstances, it would appear that the Allied nations of the Entente and the United States having united, in order to suppress all competition among themselves in the purchase of sugar by making their purchases and the purchases of their refiners through an international and official organization, the sales made through or to them could not be the most properly qualified as taking place "under the auspices" of said committee, but rather that the committee would have assumed the supreme control of the purchases as the sole buyer for the Allies throughout the world.

However this may be, the buying end of the business presents so much of a centralized and official aspect that it has not only eliminated free competition between Cuban sugars and the other sugars to which your excellency's note refers, but would invite the same unification, under official auspices, of the Cuban producers, the mill owners, and *colonos* of Cuba.

That my Government fully appreciates the risks of every nature that the Cuban sugar industry is about to face, and could not leave them unexposed to the United States Government, is now made more evident by the announcement contained in your excellency's note of "the intention on the part of all the Allied buyers to limit the consumption of this commodity in order to reduce national expenditure," and is further enhanced by the other statement of the same note, that there may be a shortage of shipping so that the entire production can not be moved. I could also add that many other circumstances with which the planters are confronted are already obliging them to make new sacrifices and expenses of every kind in order to meet the demands of the abnormal situation.

That considerable quantities of Cuban sugar could be contracted for from certain producers at the present time may be exact; but I have had information to the effect that the price offered, and which they were willing to accept, was that of 4.60 which is very near the price of 4.75 suggested by my Government, and that these producers are precisely the ones who have attained the highest perfection and lowest cost of production in Cuba to which my previous note had reference. The contracting for their sugar at a lower price than the other mill owners and *colonos* could create a situation most hurtful to the great majority of the planters and favor vast speculations, if my Government were not ready to oppose, in every legal manner consistent with good policy an unfair disposal of the Cuban crop.

All these circumstances not only justify the price of 4.75 f. o. b., recommended by my Government, but would counsel a much larger margin to the planters than ever was requested; and the Cuban Government is fearful that if the price, of at least 4 cents 75 is not reached, the Cuban sellers will either have to accept the price dictated by the International Committee or hold back—two extreme situations that would work alternatively against the interests of the sellers and the buyers, even if the consumption of sugar is eventually limited.

Without any intention of discussing this policy, it would seem, however, that the availability of sugar to the Allies as a product endowed with high nourishing qualities, should be especially appreciated at a time in which food shortage is, throughout the world, the distressing topic of the day. This circumstance also enhances the merits of Cuban sugar and would appear to advise encouragement to those who have it in their power to maintain the Cuban production at its present degree as a positive asset on the side of the Allied nations for which the resources of Cuba should be justly credited and counted upon.

The time for preparing new areas for planting now being near at hand, it would be most important to know more positively whether the requirements of the Allies are to be reduced in order that a corresponding reduction may be provided for by the Cuban planters.

All these grave uncertainties and others of a financial character that cannot escape the investigation and calculations of the international commission, indorse the price of 4 cents 75 free on board in Cuban ports which the Cuban Government suggests as a fair minimum.

May I also state that under prevailing conditions it is unfortunately impossible to reduce the price of Cuban sugar further than the minimum which my Government is willing to recommend because they consider it both equitable and just, for, should we examine as a basis for calculation the price of 7 cents 25 given to the beet-sugar producers, we would immediately find that the very small difference in our favor is more than compensated by a corresponding difference of risks, delay in transportation and other burdens that bear heavily upon the Cuban sugar industry, among which loss of weight, loss in test, interest for delay in receiving the product, the customs and higher rates of interest for the capital demanded.

The Cuban commission who came to the United States to confer with the International Committee has amply informed them of the situation as set forth in this note and my previous correspondence, without, however, obtaining, as yet, any comfort to announce to Cuba.

I have the honor to add most respectfully that all these facts are laid before your excellency due to the certainly unusual conditions that have been created in the process for the sale of Cuban sugar and to establish that my Government does not recommend an unjustified price, but a fair treatment of the only great industry we possess and on which the Cuban people and their entire economic life are so completely dependent.

With the assurances [etc.]

CARLOS MANUEL DE CÉSPEDES

File No. 837.61351/60

The United States Food Administrator (Hoover) to President Wilson

WASHINGTON, November 24, 1917.

DEAR MR. PRESIDENT: As you know, we have formed a joint committee with the Allies for the united purchase and division of Cuban and other foreign sugars. In the meantime, we had fixed a price agreement with our own sugar producers. On the basis of our domestic price the International Committee should pay approximately \$4.80 per 100, delivered New York, for Cuban sugar. This is an increase of \$1.30 per 100 pounds over 1913, the year before the war, and an increase of 25 cents over 1917, and in our view fully takes account of any increased production costs in Cuba and leaves a very wide margin of profit to the producers.

The English members of our committee contended for a price of about \$4.30 New York, but, in an effort to conciliate, we offered and persuaded the English members to agree with us in offering the excessive amount of \$4.90.

President Menocal has intervened and is endeavoring to force a price which works out from \$5.05 to \$5.25 New York and has dispatched a committee to New York to negotiate.

The President of Cuba, we understand, refuses to accede and claims he will force us to agree through the American Government. We have endeavoured to keep the entire matter simply a commercial transaction, but they insist on interjection of governmental pressure.

I feel that we can not, in justice to our consumers or to our own producers, accede to their demands. It means on maximum figures demanded, about \$40,000,000 to our people, and likewise a large increase of similar amounts to our Allies, which we will probably have to finance. Cuba only obtains a minor part of this huge sum because an increased price to them automatically raises the price of all the sugar of the whole world.

I trust we will, if the matter arises, have your support in our views.

Faithfully yours,

HERBERT HOOVER

File No. 837.61351/66

The Minister in Cuba (Gonzales) to the Secretary of State

No. 548

HABANA, December 16, 1917.

SIR: I have the honor to report that I feel apprehension about political and economic effects in Cuba of our fixing the price of raw sugar, with the provisions for buying the crop. There are, in my opinion, worse complications to be feared from the conditions of buying imposed than from the fixing of a price below the point which the producers believe their product is worth, although I have reports that *colonos* (the cane farmers) are already bitterly condemning the United States for action against their interests, and are censuring the mill owners and the Cuban Government for accepting conditions that most intimately affect the cane farmers when those farmers have had no voice or representation in the negotiations. As the Department of State would have the burden and responsibility of dealing with any problems that may be presented, and as the United States Government is considered by Cubans to be acting in this matter, and not a board or commission, I feel that I should make to the Department a clear statement of the conditions as I understand them. I have acquired a comprehensive understanding of methods of sugar production here, the economic conditions at several important points being very similar to those of cotton production and marketing with which I am intimately familiar.

The *colonos* produce the cane. Upon them fall the losses incurred through bad seasons, fires, and revolutions. They employ and pay the laborers, and they bear the expense of increased cost of farm supplies and labor. They contract in advance with the mill owners to deliver the cane to the mill for a certain percentage of the current price for the sugar produced from the cane. These contracts vary in different parts of the country, but I understand the *colonos* receive an average of 55 per cent of the value of the sugar, the mill getting 45 per cent for manufacturing.

A few strong mill corporations plant their own supplies, but the great majority are dependent upon the farmers in the country ad-

jacent to the mills for the sugar-cane supply. Under the contracts the *colonos* must be paid for the cane delivered to the mill on the 15th and end of every month. That is the long-established custom, and it is necessary to enable the farmers to pay their labor and discharge other expenses of their harvest. Scores of thousands of workmen, native and foreign, are paid for their labor on those dates.

The mills must be prepared, therefore, to pay promptly for the cane 55 per cent of the market value of the sugar produced, and with the exception of a few financially powerful companies, they are able to do this only by fairly prompt sale of the sugar.

The normal grinding season begins in December and extends over a period of six months to about the first of June. In that time all the cane is paid for by the mills and rendered into raw sugar.

Under the plan for buying the cane, fixed in New York recently, at the time the price of 4.60 a pound was determined upon, the buying combine agrees to take 70 per cent of the sugar, with an option on the remaining 30 per cent, and of that 70 per cent, 2 per cent is to be taken this December and the remaining 68 per cent will be taken in equal quantities over a period of 11 months.

To illustrate what this would mean I will take a mill with a product of 100,000 bags of sugar. The buyers would take 2 per cent of 70 per cent in December, or 1,400 bags, and 6,236 bags a month thereafter until December 1. On the latter date the mill owner would still have 30 per cent or 30,000 bags on hand subject to the buyer's option. But on the first of June, after having paid for the cane and ground the sugar, the mill would have sold only 32,580 bags, and would be supposed to be holding 67,420 bags. Or, to put it another way—the mills would have paid out to the cane growers by the first of June, on a yield of 3,300,000 tons, \$175,000,000, and would then have to hold \$200,000,000 worth of sugar until the buyers called for it during the succeeding 6 months.

The first practical objection to this plan, but not the most pressing, would be the physical impossibility of properly warehousing that quantity of sugar in Cuba. A greater obstacle would be the inability of the banks of Cuba, even should they place their entire resources at the disposition of the sugar mills to the detriment of every other enterprise, to finance such an undertaking.

But if this financial obstacle could be overcome, there yet remains a more formidable difficulty. Very many of the mills can not pay for their cane and discharge their own expenses during the harvest season from November until June on the proceeds of the sale of one-third of the sugar, which is all the buyers propose to take during that period. Yet the cane must be paid for. Neither laborers nor *colonos* have ever waited for their money, and they know that now the world needs the sugar. The cane must be paid for or it will not be harvested.

By the possible direct assistance of the United States Government, it is considered that this last objection might be removed; if it were not, the mills to prevent riots might have to offer their sugar for anything speculators would pay for it; or they might offer to pay the *colonos* in sugar which would be bought up by Spanish and American speculators to the great loss of the producers

who would inevitably hold the United States Government responsible for the conditions.

Were it practicable, however, to surmount the several financial difficulties cited, there is another point bound to bring the *colonos* and the mills into serious conflict and to engender more bitterness against the United States, if the present program for buying is carried out. Should the mills be able to finance themselves, they will probably charge the *colonos* with part of the cost added to the marketing by these revolutionary methods. That cost will not be merely the interest on the money, but will include storage charges for an average of 4 months, and the loss in weight and quality of the sugar. The *colonos* know that a price of 4.60 has been fixed. They are protesting against it, and will certainly make a bitter contest against payment for their cane on the basis of 4.35 or 4.40. To suppose a parallel situation in the United States, the effect upon a million of the less advanced cotton growers of the South may be imagined should the price of their cotton, selling for 9 cents a pound this time three years ago, be fixed at 20 cents (it is now selling for 30) and they be required to bear part of the loss in weight, warehousing charges, and insurance, throughout the year. And the ground is made more fertile for discontent by the great advance in prices of those food products for which Cuba is dependent on the United States. There is no lard or lard compound; the last I heard of sold for 75 cents and 50 cents a pound respectively. There was no butter in the market last week except that brought from Spain and Denmark. Wheat flour was priced to me at \$20 a sack of 200 pounds, and 11 cents a pound in smaller quantities. There is no corn meal. Common bacon has become a luxury. Potatoes are from 250 to 300 per cent higher than they retailed for in France the past summer at the time our transports landed the first American-armed contingent. The only relatively cheap food in Cuba is rice imported from Japan, which is selling for from 8 cents to 9 cents a pound; and we are receiving urgent requests from the authorities in the United States who watch over these things, to know why so much rice is coming here.

I do not know, of course, why it is proposed to leave in Cuba after its manufacturing, such a large part of the sugar crop. In the circumstances it would appear safer in the United States. The immediate practical result would appear to be a shifting of loss in weight, etc., and the cost of storage and carriage in banks from the pockets of the buyer to those of the mill owner here. Nor do I know the reasons governing the selection of the American members of the commission which fixed the price of sugar, and imposed the conditions of buying, but I think the Department should know the criticism here that the sugar interests of Cuba were placed at the mercy of the sugar refiners. Mr. Mesa, of the Cuban delegation, who lived in England many years, and knew Mr. Todd, one of the English representatives on the commission, makes a solemn declaration to me that, after hearing his statement, the Englishman said: "I would like to help you, but what can I do? I am the only man on the board, not excepting my associate from England, who is not personally interested in the issue."

When I saw General Menocal on December 5, the day before he left Habana for eastern Cuba, where he now is, his only comment

was that he could sincerely say he had asked for an increase in the price of sugar not for the little benefit such increase would do this country, but for the sake of avoiding arousing any feeling among the cane growers against the United States.

My uneasiness over the outcome of the sugar-buying program in Cuba is not confined to the results here. The exigencies of war demanded the breaking of barriers, but the spirit of our Government is against, as fundamentally wrong, "combinations in restraint of trade" and "pools", and it would be better for the future were it feasible to avoid giving the Government's stamp of indorsement to such policy.

I have [etc.]

WILLIAM E. GONZALES

File No. 837.61351/83a

The Acting Secretary of State to the United States Food Administrator (Hoover)

WASHINGTON, January 14, 1918.

SIR: The Department of State has received, under date of January 11, an informal inquiry from your office as to whether the official approval of the Department would be given to the preliminary and confidential copy of the agreement which it was understood was entered into between the International Sugar Committee of the United States Food Administration, the Cuban commission, the Cuban committee for arranging commercial terms appointed by the President of the Republic of Cuba, agents of various Cuban producers acting severally for the producers of sugar in the island of Cuba, and the Royal commission on the sugar supply, and refiners of sugar in the United States.

In reply to the above inquiry I wish to inform you that, in view of the fact that, pursuant to your request, the Cuban Minister was informed on November 8 that, respecting the price for Cuban sugar, it appeared that the matter was one for determination between buyers and sellers with as little Government intervention as possible, this Department can not see its way clear to make any statement in regard to the agreement in question.

I am [etc.]

FRANK L. POLK

File No. 837.61351/81

The Cuban Minister (De Céspedes) to the Secretary of State

[Translation]

WASHINGTON, January 18, 1918.

MR. SECRETARY: I have the honor to inform your excellency that the contract for the sale of Cuban sugar of the 1917-18 harvest, entered into by the International Committee, the United States Food Administration and the Cuban commissions over which I have had the honor to preside was approved by my Government on the 17th day of January of this year in the form established in the final text of the said contract of the 10th of the same month and year, putting it into legal effect from that day of January 1918, and I beg your

excellency to be good enough so to advise the Food Administrator of the United States.

In accepting the contract which my Government proposes to observe and cause to be observed in its every part in as far as it lies within its province, it finds great pleasure in feeling that it is contributing to the common cause in these decisive moments for the freedom of the world and is fully confident that your excellency's Government and the various administrations and organizations created in connection with the war that are to have a part in carrying out the agreement will see to its being done under the most favorable conditions that can be allowed to the Cuban people.

I avail myself of the opportunity to suggest to your excellency that in order to impart to the harvesting of sugar the highest efficiency and speed, it would be of great help and very desirable to extend to the trade of Cuba the best facilities compatible with the state of war, seeing that, as I have already assured your excellency in the name of my Government, goods imported from the United States are not reexported from Cuba, and the Board of National Defense has not only recommended the greatest economy in consumption to the people, but also sees with patriotic interest that the orders are for what our Republic truly and imperatively needs, at the same time as the country itself is furthering cultivation and breeding in every province, to such a degree, however, as will not detract from the sugar-cane growing which is of such importance to its allies and is the main foundation of our economic life.

I renew [etc.]

CARLOS MANUEL DE CÉSPEDES

File No. 837.61351/130a

The Secretary of State to the Secretary of the Treasury (McAdoo)

WASHINGTON, February 12, 1918.

SIR: I have the honor to inform you that according to reports received by the Department from American officials in Cuba there exists a situation in connection with the financing of the sugar crop, which may result in serious economic as well as political difficulties for both the United States and the Republic of Cuba.

The Department understands that the International Sugar Commission has entered into a contract with the Cuban Government and with the representatives of the Cuban sugar producers, which provides for a certain price to be placed on sugar produced in Cuba and also comprises arrangements for the transportation of this sugar to the United States.

It now appears that on account of the lack of tonnage existing at this moment, due to conditions brought about by the war, that the sugar can not be moved with that rapidity which is essential for the satisfactory financial operations customary in these transactions. It is therefore necessary that credit be extended to the sugar producers based on the sale of the sugar in order that they may continue to pay the wages of their employees and to meet their other expenses.

The Department understands that the various banking institutions of Cuba are unable, on account of limited resources, to finance

the present undertaking and very many of the mills can not pay for their cane and discharge their own expenses during the harvest season under present conditions; nevertheless the cane must be paid for. In the past neither the laborers nor the *colonos* have ever waited for their money, and as they know that the world needs sugar, the cane must be paid for or it will not be harvested.

Without taking into consideration the serious difficulty which would undoubtedly be occasioned in this country, as well as in the countries of the Entente Allies, should sugar production come to an end in Cuba, it is necessary to give careful thought to the fact that if the great quantities of laborers, who have come to Cuba from different countries only on account of the harvesting of sugar crop, are not paid, riots will undoubtedly take place together with the burning of cane and of sugar mills. Such a situation would most certainly bring in its train political unrest which would in all probability be fostered by enemy agents who are only too desirous of seizing such an opportunity to embarrass Cuba, the United States, and the Entente powers.

The Department in bringing these facts to your attention trusts that you may be in a position to take whatever steps may be necessary to aid in arranging for the necessary credits.

I have [etc.]

ROBERT LANSING

File No. 837.61351/114a

The Secretary of State to the Consul General at Habana (Harris)

[Telegram]

WASHINGTON, February 12, 1918.

For Consul General Morgan:¹

With regard to the 25 per cent of uncontracted sugar you can say that as long as the war lasts we are not going to allow the import of sugar into the United States at one penny variation from the agreed price inasmuch as the whole of the sugar that is not taken by the Allies will be needed for American consumption. This should be sufficient assurance to the producer. We are making every possible effort to complete the loan at earliest moment. Yesterday some \$45,000,000 were subscribed and further meetings of bankers in New York, Boston, and Philadelphia are being held with view to completing the amount, and the Cuban Government should necessarily implement all of their resources and credit to handle this situation which is practically one of domestic order and in which we are only intervening out of desire to be of service to the Cuban people.

HERBERT HOOVER

LANSING

File No. 837.61351/89

The Special Agent in Cuba (Consul General Morgan) to the Secretary of State

[Telegram]

HABANA, February 15, 1918, noon.

For Hoover, Food Administration:

I have given wide publicity throughout Cuba to your telegram of February 12, 6 p. m., regarding the price of sugar imported into

¹ On detail as special agent in Cuba.

the United States and your success in bringing the loan to a successful issue. The information has been received with great satisfaction here. It will also have a good effect in stopping speculation in sugar in Cuba.

MORGAN

File No. 837.61351/126

The Minister in Cuba (Gonzales) to the Secretary of State

[Telegram]

HABANA, April 1, 1918, 11 p. m.

Your March 21, 5 p. m.¹ After several interviews with Mr. Potter² I took him to the President this afternoon. President accepted, without suggesting change, detailed plan for loans prepared by Mr. Potter, and will himself give it official publication. At conference with me, last Saturday, President had accepted plan appointee of bankers or of a United States official joining Cuban Government official in signing storehouse certificates for plantation storehouses. To-day Mr. Potter suggested another plan used here to some extent whereby borrower leases storehouses to lender who remains in charge. Either plan acceptable to the President. Mr. Potter not determined which he prefers. The machinery for either can be inaugurated in a few days.

Mr. Potter somewhat disturbed by fact that large amounts cheap money from London are coming into this market.

GONZALES

File No. 837.61351/141

The Minister in Cuba (Gonzales) to the Secretary of State

[Telegram]

HABANA, May 30, 1918, 5 p. m.

This afternoon a newspaper states that Mr. Morgan has promised unofficially that price of next sugar crop would exceed that fixed for present crop.

To official of the Department I suggested three weeks ago that, if there is to be advance in price of next crop, immediate announcement of fact be made if it is desired to stimulate production.

There is no enthusiasm among actual growers of cane over present prices and my information is no increase acreage or betterments in cultivation are contemplated; our Army Intelligence here believes next crop will be smaller. After June stimulating prices can not increase production.

If desired that fact of increased price for next crop be given publicity, I regret [request] early information.

GONZALES

¹ Not printed.

² Representative of the Cuban Sugar Syndicate Corp. for financing the sugar crop.

File No. 837.61351/149

The Cuban Minister (De Céspedes) to the Secretary of State

WASHINGTON, July 10, 1918.

MY DEAR MR. SECRETARY: I have the honor of informing your excellency that His Excellency the President of Cuba has designated Mr. H. R. Hawley, Mr. M. Rionda, and your humble servant to act as delegates for Cuba in the fixing of the price of Cuban sugar for the crop of 1918-19, as also for all matters relating to the contract.¹

This commission, [over] which I have the honor to preside, present their respectful salutations to your excellency, and are to hold the preliminary meeting with the officials of the United States Food Administration to-morrow at 10 o'clock a. m.

With the assurances [etc.] CARLOS MANUEL DE CÉSPEDES

File No. 837.61351/167

The Minister in Cuba (Gonzales) to the Secretary of State

No. 792

HABANA, September 12, 1918.

SIR: I have the honor to report that some weeks ago, receiving through Army Intelligence a report, coming from British and French sources, that the enemy would attempt to destroy sugar stored in Cuba, I called on the President and informed him of the reported danger, and asked that measures be taken for the protection of the sugar.

On September 7, it being reported to me that the private warehouse of a Spaniard at Cardenas had been destroyed by fire, causing the loss of between one and a half million and two million dollars' worth of sugar, I sent a special messenger in my automobile with a note to the President who was in the country, calling attention to the seeming verification of our report as to the purpose of the enemy.

On the evening of September 9, having a report of the destruction by fire of the machine shops and electrical apparatus of the Hershey Sugar Mill, I communicated the same night, in a similar manner, with President Menocal, who was in the country.

In each instance the President sent me a verbal message. Under date of September 10, I received from the secretary to the President the following communication:

HABANA, September 10, 1918.

HONORABLE SIR: Pursuant to instructions from His Excellency the President, I have the honor to acknowledge the receipt of your favor of the 7 and 9 instant in reference to the Arechavala sugar warehouse and the Hershey sugar-estate fires.

In reply His Excellency directs me to state that orders were given some time ago, in accordance with your suggestion, to keep a strict watch on all sugar warehouses and sugar factories in order to guard against any criminal attempt.

¹The new contract, based on considerably advanced prices, was signed October 24, 1918.

Notwithstanding the fact that from the investigations made thus far, it does not appear that the fires in question were of incendiary nature, but rather accidental, His Excellency has given very strict orders to adopt every necessary measure to fully protect all the sugar factories and estates throughout the Island.

Yours very truly,

RAFAEL MONTORO
Secretary to the President

I understand that the Rural Guards and the Army have been charged with the duty of protecting sugar warehouses and mills.

I have [etc.]

WILLIAM E. GONZALES

DOMINICAN REPUBLIC

POLITICAL, ECONOMIC, AND INDUSTRIAL AFFAIRS

File No. 839.00/2092

The Secretary of the Navy (Daniels) to the Secretary of State

WASHINGTON, July 17, 1918.

SIR: I have the honor to forward herewith, for the information of the Department of State, a copy of the quarterly report of the Military Governor of Santo Domingo for the period April 1, 1918, to June 30, 1918.

Sincerely yours,

JOSEPHUS DANIELS

[Enclosure—Extracts]

The Military Governor of Santo Domingo (Knapp) to the Secretary of the Navy (Daniels)

SANTO DOMINGO, July 1, 1918.

Speaking generally, quiet and good order have continued to prevail throughout the quarter. There have been some sporadic outbreaks of banditry which have been promptly quelled, and at this writing there are no reports of disorder in the Republic. These outbreaks of banditry appear to have some connection with the initial success of the Germans in France, and there seems to be reason to believe that there is a German propaganda which it has not so far been possible to locate definitely. The situation is, however, in entire control. Agricultural activity has increased and will be referred to later on. Business conditions have been more and more affected by the war, although there appears to be ample capital in the country to continue business activity as soon as the extraordinary measures taken by the belligerents shall cease to be effective.

The disarming of the population has continued. There has been some suspicion that arms in small quantities have been smuggled into the country; and also that arms have been sent across the border from Santo Domingo into Haiti. These reports have not been definitely proved. A prominent Dominican citizen in the Cibao, affiliated with the Horacista Party, is now under arrest for having had in his possession a considerable quantity of arms and ammunition.

The customs revenues of the country have shown a disquieting decrease, which is all the more disquieting because it is a reversal of the trend of collections during the same months of 1917. There is reason to hope that the country will pass through the calendar year without a deficit, but the falling-off of customs revenues will continue to be a source of anxiety until such time as it is certain that the revenues will equal the expenditures. The reasons for this decrease are entirely external, and are the result of the war. I take this occasion to repeat the opinion, expressed in previous correspondence which has treated this subject of customs revenues more at length, that the Dominican Republic should receive as favorable consideration in respect of imports to and exports from the United States as can possibly be given. A partial offset to the decrease in customs revenue is an increase in internal revenue. As the latter is, however, in normal times only between one-quarter and one-third of the customs collections, the increase of the former does not, up to the present time, balance the decrease

of the latter. Owing to the charges against the customs revenues in accordance with the treaty of 1907, the increase in internal revenues must be nearly one-half the decrease in customs revenues in order to insure a fixed available income for the purposes of the Dominican Government.

The Military Governor is still awaiting action upon the proposed scheme of public works. He had hoped that action would be expedited upon this letter after his recent personal visit to Washington, but thus far no information has been received regarding the action of the State Department.

The Dominican Claims Commission has continued its labors uninterruptedly. It is still unable to do much more than have hearings and make preliminary decisions. The president of the commission, Mr. Edwards, is now in the United States, and he took with him drafts of a proposed bond issue by which the claims can be liquidated. The Military Governor was greatly disappointed to find during his recent visit to Washington that it was impracticable to obtain a direct loan from the United States Treasury for the purpose of paying adjudicated claims in cash. Failing this, the proposal which has been forwarded and which Mr. Edwards is prepared to discuss, or something similar, seems to be the only method open for the payment of these claims without great delay which would entail considerable loss and even hardship in many cases and would militate against the growth of sentiment favorable toward the United States.

There is nothing more satisfactory to be reported than the very great improvement and quickened interest in educational matter. It will only be possible to refer briefly to what has been done. The attendance of children at school has been increased over 120 per cent; modern standard courses of instruction have been prescribed; a complete system of school inspection has been provided; teachers' salaries have been standardized and raised to a figure commensurate with the work; school discipline, practically non-existent hitherto, has been established, and the same thing is true of a system of sanitation; schools in the cities which formerly were scattered all over town and were housed in the homes of the teachers, who were generally very poor people, are now being housed in the best building; an order for some \$50,000 worth of school furniture of standard description has been placed in the United States; a series of plans and specifications for the construction of standard school houses is in preparation, and already is partially completed. The appropriations, national and municipal together, for schools in 1918 are about double what they were in 1917, resulting in great improvement of existing schools and the establishment of about 250 new rural schools; agricultural instruction is being included in the rural schools; standard school books have been prescribed and their purchase arranged for at a reasonable price; the university has been reorganized and is now in a condition to form a nucleus for a modern university; the issue of diplomas and degrees has been standardized and their number limited, and they are now only given for standard attainments, which was not the case hitherto. Plans are now being studied for holding summer schools for teachers, for increasing the capacity of schools by having morning and afternoon sessions for different pupils, and in other ways for continuing the improvement of educational matters in the Republic. While much still remains to be done, the improvement during the past year has been enormous.

In agricultural matters there is likewise a very great improvement. The number of traveling demonstrators has been increased, although they are yet far from sufficient for the needs of the whole Republic. The Agricultural Experiment Station near this city is now in active operation; the clearing is practically all finished, and about 60 per cent of the land is under cultivation. The silo, dipping tank, and windmill are nearly completed. The station should be in full operation in a short time. Three substations have been started at Jarabacoa, Monte Cristi, and La Romana, on land which is practically virgin soil at all of these places. By the liberality of the sugar company at La Romana the land and labor for that station is being furnished the Government free. Land is being rapidly cleared and placed under cultivation all over the Republic. No exact figures are available, but a rough estimate places the amount of this work at double what was done in the past calendar year, and that was very considerable. An animal industry bureau has been inaugurated by the appointment of Mr. S. Durham, who was lately with the Agricultural Department of the United States. The people of the Republic are

very slow to adopt new methods of agriculture, and it is to be expected that progress in this direction will come only a little at a time. The Director of Agriculture, Mr. Johansen, has recently made a second extended tour through the country, and has rendered a very interesting and valuable report. He finds faulty methods and poor cultivation almost universal, but his visit and the efforts of the traveling demonstrators will be bound to have good results, although they may not be apparent immediately.

A new immigration law, based largely on the laws of the United States and of Porto Rico, has been prepared by the Department of Agriculture and Immigration, and is now being studied by the Department of Justice and Public Instruction before being submitted for issue by an Executive order.

Prospecting for minerals is going on at an increasing rate, and with some evidences of success. Copper is known to exist, as is gold, in small quantities. There seems to be a prospect that petroleum may be found in workable quantities. Nickel ore of more than average richness has been discovered, and there are reports of manganese deposits. Little is known of the mineral possibilities in the Republic, but I have a more hopeful belief that they may prove to be considerable than I had at one time. An expert from the United States Geological Survey is now in the country looking over its mineral possibilities, in so far as they may be useful to the United States in its prosecution of the war.

The shipping situation has been somewhat ameliorated during the past quarter, but is not yet in a satisfactory state from the point of view of the Dominican Republic. As shipbuilding increases in the United States, it is hoped that some part of the new shipping may be devoted to bring the shipping facilities of the Republic back towards normal.

As in the past quarter, no new large public works have been authorized, but the Department of Public Works has been occupied with those already authorized and in hand. . . . Several public works have been finished, including the Yaque River bridge at Santiago, and the Puerto Plata wharf. Other work is in a forward state, as the custom house at Puerto Plata and that at Santo Domingo City. Repairs have been made on roads already constructed to keep them in good order, and new work authorized has been carried on. In some cases work has been hindered owing to the non-arrival of materials from the United States, as for instance steel for certain bridges. Owing to the high bids for the road authorized for about 20 kilometers from Los Alcarizos toward La Vega, all bids were rejected and the Department of Public Works was authorized to proceed with the construction of the road by the administration. The survey of the road has been carried on for about 20 kilometers further and is now completed for a distance of about 40 kilometers out of Los Alcarizos or about 59 kilometers toward La Vega from Santo Domingo City. Some dredging work has been done in the harbors of San Pedro de Macoris and Santo Domingo City.

The Public Health Service has continued to receive the attention that is possible without a considerable change in the organization and in some of the laws governing it. During a recent visit of the Military Governor to Washington, this was taken up and an understanding reached with the Department of State regarding further work in this particular. Meantime the present organization has been carefully observed and plans have been drawn with a view to establishing a public health service on modern and definite lines. Owing to the relief of the Naval Medical Officer having this in his especial charge, action will be postponed until the officer who relieved him can familiarize himself with the conditions and have an opportunity to make his own suggestions.

The Dominican Central Railway continues to be successfully administered by its manager, Mr. Collins, who is making improvements from time to time as opportunity occurs and as these improvements are made possible by the arrival of material. An additional geared locomotive has been received which greatly increased the capacity of the railway by its use on the very heavy grade where the rack system was originally installed. Under present conditions it is not advisable to get much railway material at the present high prices, if indeed it can be obtained at all, but with such as is on hand the road is being daily placed in better condition. The bridge over the Bajabonico River, with its approaches, is practically completed at the writing of this report. The railroad is in a very satisfactory financial condition,

The present strength of the Guardia Nacional Dominicana is:

United States Marine Corps	19
Officers	28
Enlisted men	1,056
Civilians (clerks)	11
	1,114

The arming of the Guardia with a modern rifle has not yet been effected. These rifles were obtained as long ago as April, and I am at a loss to account for their not yet having been received; a number of transports have arrived here since the time when I was in Washington and was informed that the rifles had actually been purchased and were in hand. It is important that these rifles and the ammunition for them be sent at the earliest possible moment. Some difficulty is naturally being met in the education of Dominican officers of the Guardia to American standards. It may be, and probably will be, necessary to put a larger number of Americans in the Guardia as officers until the Dominicans, by association with them, can be brought to a better knowledge of the requirements of their official position and a higher sense of accountability in every direction. . . . If the bill authorizing Americans in the Dominican service to accept compensation from the Dominican Government has been passed by Congress and approved by the President, I have not been informed of the fact. This is a matter of importance, especially for non-commissioned officers of the Marine Corps who have been placed in the Guardia with commissioned rank therein. They are obliged to meet expenses and maintain a position before the public that makes a demand upon their private purses which they are not prepared to meet.

Under the supervision of Mr. E. H. Hathaway, improvements of a substantial nature have already been made in the Dominican Postal Service. Among these have been the placing of every Dominican postal official under oath for the proper performance of his duties, the handling of supplies at a reduced cost, and a more systematic and responsible system for handling mails, especially of the registered and parcels-post classes. A system has also been put in effect of thorough investigation of complaints, a thing that had not hitherto been regularly and systematically done. The improvement of the postal service is already manifest, and other measures of importance are in the making which will give a still better service in the Dominican Republic and one which it is hoped in time will be as efficient as the means of communication of the Island make possible.

During the past quarter great improvements have been made in the Dominican National Telephone and Telegraph Service. The employment of an efficiency expert has proved to be a measure of great value, and the employment of an expert lineman has introduced efficient methods where inefficiency ruled before. A number of miles of new line have been constructed, including practical replacement of much old line that was out of commission. The old lines have been, and are still, being placed and kept in a condition of good repair; reforms have been made in the personnel including the weeding out of many inefficient persons; and a new tariff has been placed in effect which is more systematic than the old tariff, and includes a reduced-rate night service. These changes have brought about gratifying results, although some of these measures have been taken so recently that their full effect has not yet become evident. As is the case with the Postal Administration, the Administration of Telephones and Telegraphs has been placed on an increased scale of efficiency and further improvement is expected.

The Military Government is not yet prepared to take action upon the burning question of land titles. Col. R. H. Lane, U. S. M. C., is continuing his work on the matter in consultation with Mr. Peynado, but a concrete proposal is not yet ready for submission. Substantial advance has, however, been made and progress is as rapid as circumstances permit.

The work of food control has gone on during the quarter with excellent results. There was some restiveness under the necessary orders at one time, but this has practically disappeared and the office of the food controller is now working smoothly. Through it a sufficient supply of wheat has been obtained for real needs, although the supply is naturally much below what has been normally obtained hitherto. The Military Government for the Dominican Government, as has already been reported, is handling the entire importation

of wheat into the Republic. It is not attempting with its own capital to do this for other food supplies, but it is undertaking the control of their distribution and the fixing of prices. Such complaints as have arisen, aside from those of persons who were willing to exploit their fellow citizens for their own profit, have been made by people who did not understand the objects of the Food Control, and who have laid shortages in certain supplies to that control, when as a matter of fact the suffering would have been much greater if the control had not been exercised. As time goes on, the object of the Food Control is being better understood and complaints are of diminishing frequency. The propaganda for increased planting and for the Republic's independence, as far as practicable, in respect of outside sources of supplies, has continued, and, as mentioned in other parts of this report, has borne fruit.

The reform of the entire Civil Service is now being studied by Mr. Terry of the Porto Rican Civil Service Commission, whose services have been again kindly lent by the Governor of Porto Rico. Mr. Terry already has considerable familiarity with conditions in the Dominican Republic, by reason of his previous service here. Upon the conclusion of his labors at this period, I anticipate that a scientific scheme of civil service will have been presented which, when put in effect, will be a great step forward in efficiency and in the development of proper ideals. Once put in effect by the Military Government, whose acts will doubtless be made legal in any arrangement between the Government of Santo Domingo and the United States before Military Government ceases, it will, while possible, be a difficult matter for a subsequent Dominican Government to revert to the spoils system.

Under the Department of Justice a special legal adviser, learned in Dominican law, has been employed with benefits fully justifying the extra expense. Proposed Executive orders originating in other departments have been reviewed by him, and he has assisted the officer administering the Department of Justice and Public Instruction in preparing orders originating in that Department. The courts are improving, and it is believed that they will continue to improve. The increase of pay of judges has, I believe, resulted in a good effect on the standards of efficiency of the courts; while the support of the Military Government stiffens them in the performance of their duties. At the present moment the Department of Justice is considering an Executive order providing for the release of convicted prisoners under suspended sentences and for the quashing of charges for offenses committed under different social conditions. The law does not now provide for indeterminate or suspended sentences, for pardons, or for the quashing of charges once made. All these things need correction, and they all have a great bearing on the prison situation referred to in another paragraph.

The pressure of work on all officers with the Military forces here is so great that matters of immediate and pressing importance necessarily make slow the investigation of other far-reaching matters of special administration. The Military Government is proceeding on the principle that it is the wise thing to be sure, and prefers reasonable certainty rather than haste. The reform of the marriage laws has not yet been brought to a state where it can be promulgated; but in the same general connection Executive Order No. 168 has recently been issued, permitting the proof of paternity in the case of illegitimate children. The law existing hitherto was derived from the *Code Napoléon*, which in France has been amended in this particular. It is recognized that the change in the law may make possible cases of blackmail, but against this the welfare of the general body politic must be set, and in my opinion there is no comparison between the two considerations. The order has been a subject of considerable comment, public and private. Two of the newspapers of this city have referred to it in terms of commendation, and I have received letters from Dominicans of prominence expressing great satisfaction that the order was issued. The only thing that has reached me in criticism of the order came in anonymous form, and practically admitted the reasons for the issuance of the order, basing criticism upon the danger to people whose actions in the past laid them liable to its application. As has been previously reported, the percentage of illegitimacy in the Dominican Republic is very high, being estimated by the statistician of the Republic at about 60 per cent. Under the old law it was impossible to reach the father of these illegitimate children by legal means, and thus hundreds of children annually came into the world with no support but the illegitimate mother, a condition of things

bound to bring about neglect of children and a large degree of vagrancy as these children grew up, with the attendant tendency to crime.

On June 26, Surgeon Reynolds Hayden, United States Navy, reported to me for assignment to duty. I have placed him on my staff and have already reported this action to the Department. It is my intention to have Surgeon Hayden take over the work in connection with sanitation and the general public health service that has hitherto been in charge of Surgeon P. E. Garrison, United States Navy, who has had more than three years tropical duty, and whose detachment is already ordered with its date left to the discretion of the Military Governor. There have been no other changes in my staff.

In conclusion I again acknowledge the efforts of all who have been associated with me in the work of military government, with special acknowledgment to the American Minister and the American treaty officials who are not connected with the military establishment. The country is in a period of constructive work after pacification. To one living here day in and day out the results of the work already accomplished come so gradually that they lose their full significance until he carefully compares conditions as they exist to-day with those of previous periods, even no longer than three months ago. Looking back over the entire period since the establishment of military government, the improvement is enormous in conditions as they exist to-day over the conditions as they existed on November 29, 1916, and it is continuing constantly. As soon as the termination of the war shall permit the unrestricted resumption of business in the Dominican Republic, I look forward to a condition of material prosperity and development of the country, and an improvement in the educational, social and moral conditions of the people, that will have no parallel in any previous period in the history of the country.

H. S. KNAPP

File No. 839.00/2104

The Secretary of the Navy (Daniels) to the Secretary of State

WASHINGTON, November 13, 1918.

SIR: I have the honor to forward herewith, for the information of the Department of State, a copy of the quarterly report of the Military Governor of Santo Domingo for the period July 1, 1918, to September 30, 1918.

There is also enclosed herewith a report by the Commander, Second Provisional Brigade of Marines, Department of Interior and Police, relative to a recent trip of inspection to various places in the Dominican Republic.¹ It is requested that this report be returned for the files of the Navy Department when it shall have served its purpose.

Sincerely yours,

JOSEPHUS DANIELS

[Enclosure]

The Military Governor of Santo Domingo (Knapp) to the Secretary of the Navy (Daniels)

SANTO DOMINGO, October 18, 1918.

Quiet and good order have continued to prevail generally throughout the quarter. As in the previous quarter, there have been outbreaks of banditry which at one time appeared to be assuming somewhat serious proportions. Prompt measures were taken, however, by the Acting Military Governor; and at the end of the quarter, while there are bandits at large, they are being constantly pursued and given no rest. There is now no occasion to feel any undue concern over their activities. The banditry is confined entirely to the two provinces of Seibo and Macoris. There appears good reason to believe that there has been German support for these outbreaks, and at present one or two Germans are in custody on apparently well-founded grounds

¹ Not printed.

of their having been concerned in such support, but their cases have not yet come to trial.

Agricultural activity continues to increase and business conditions are as good as the World War permits. There seems to be ample capital in the country to continue business activities; and, in my opinion, it is only a question of the termination of the war when general business in the Dominican Republic will make strides greatly in advance of anything heretofore known.

The disarming of the population has continued. During the operations against the bandits referred to in the preceding paragraph it has become very plain that some arms are being imported into the country, without evidence, however, that such importations are of any great extent. The Dominican citizen referred to¹ has been tried and found guilty by military commission and has been sentenced to imprisonment for ten years. It is hoped that this example may serve to discourage other Dominicans from engaging in projects mimimal to the Military Government and to the peace and welfare of their own country.

The customs revenues of the country, which at the last report had shown a disquieting decrease, have made a partial recovery; it seems now quite certain that the calendar year will not show a deficit, although the customs collections will not equal the estimate upon the basis of which the budget for 1918 was laid out. That the falling-off of customs collections will not result in a deficit is due to the fact that the collections of internal revenue very largely exceed the estimate for the year 1918. The combined revenue available for Dominican Government expenses will, it is confidently believed, be sufficient for the year.

During the quarter the proposed scheme of public works was given the approval of the United States Government, and certain of those works were immediately provided for in Executive Order No. 187. These projects will be taken in hand as soon as contracts can be advantageously placed, and the others authorized will be taken up as circumstances make it advisable. It is very difficult at this time to obtain satisfactory contracts on account of the high prevailing prices, and also because of an actual lack of bidders. There is also a labor scarcity in the country, which is a handicap to bidding contractors, as it is to the administration, in the prosecution of work that has been undertaken directly by the Government. An attempt to ameliorate these conditions has been made by establishing a Bureau of Labor under the Department of Interior and Police; this bureau is meeting with some success. This limitation to the amount of public works that can be carried on at one time, due to the labor scarcity, is added to by the difficulty under the present war conditions of securing competent supervising engineers.

On the projects in hand at the beginning of the quarter, work has advanced in a satisfactory manner. Probably the most important public work now in progress is the construction of parts of the trunk road connecting the south and the north of the country. Two sections of new road are now in progress of construction, one by administration toward the north from Los Alcarizos (about 16 kilometers from Santo Domingo City) of which 4 kilometers are graded, and the other from La Vega toward the south. The survey of the road is progressing, and it has been staked as far as the 80th kilometer from Santo Domingo City. A definite location is expected to be finished by the end of the year. It is hoped that the entire road can be finished within two years. It will open up large sections of fertile country, and provide an artery of communication that will be invaluable in both a civic and military way. There has been much work on minor roads by the provincial authorities on their own initiative, which is a new development and one from which much may be hoped. Considerable maintenance work has been done on the national roads, which are generally in very fair condition.

The Dominican Claims Commission of 1917 has continued its labors uninterrupted.² The President of the commission was absent on a much-needed leave during most of the quarter, but the rest of the commission has sat in committees, one in the north and one in the south of the country. During the

¹ Report of July 1, 1918, printed *ante*, p. 359.

² See "Financial Affairs: Proposal for a bond issue to pay claims adjudicated by the Claims Commission," *post*, p. 371.

quarter, the question of finding a means to satisfy claims favorably acted upon by the commission has been solved by Executive Order No. 193. Upon his return to Santo Domingo from duty in Washington the Military Governor found that the issuance of this order had been a source of great satisfaction. Although claimants would have preferred settlement in cash, they realized as a class the practical impossibility of finding the funds for cash payments, and they have accepted with excellent grace the alternative step that has been taken. The committee of the commission that has been in the north is expected within a few days to finish its labors there and to return to Santo Domingo City, when the commission as a whole will resume its labors, make awards, and the payments of the awards in the method provided by Executive Order No. 193 will proceed.¹ A plan by which it is expected to stabilize the value of the 1918 bonds is now being considered which will at the same time increase the interest accruing to certain funds of the Government that are not needed for immediate expenditure. The details have not been fully worked out, but it is expected that the arrangement will be completed within a few days. Looking to this end a proviso was inserted in Executive Order No. 207 which provides for a survey of the Republic, permitting the fund set aside for that purpose to be invested in the lower denominations of the 1918 bonds.

Gratifying improvement in public instruction continued during the quarter. In addition to the matters noted in the work of preparing programs, rectifying courses, preparing textbooks and general organization has been carried on steadily throughout the summer. The new code of education is working smoothly and satisfactorily. The compulsory attendance law enables the authorities to keep existing schools full to capacity. During the vacation summer schools were held, especially for rural teachers, at which attendance was made compulsory. This caused some dissatisfaction, which was natural, but it is believed that much good was accomplished and a foundation made for future work. Excellent as the work so far accomplished is, however, the school system still remains far behind the necessities of the Republic. It is estimated that there are nearly 200,000 children of school age in the Republic, of whom the schools were able last year to accommodate about 45,000. While the advance in matters of public instruction has been very great, the needs still existing are great and pressing. It is with much regret that the Military Governor has been forced to withhold approval of recommendations for additional educational funds in the budget of the coming year now in course of preparation, owing to the anticipated falling-off in revenue which, at the present time, appears likely to leave an available income for 1919 less than the estimated income for the current year. Unless conditions materially change, rigid economy will have to be exercised in laying out the budget for 1919, and little or no increase of expenditure in any direction will be practicable.

The advance in agricultural matter continues. The number of districts for which traveling demonstrators will be needed has been fixed at about 40. It has not been possible to get all this number yet, there being at this time 26, but they are being secured from time to time as competent Spanish-speaking men can be obtained. A formal opening of the Agricultural Experiment Station near this city was recently held and excited great interest. All through the day visitors from this city and other nearby places were about the station, where they saw what had already been accomplished and were given information by the employees of the Agricultural Department, who were present for the purpose, of the scope of the work undertaken and what was hoped to be accomplished in the future. One interesting feature in connection with the opening was the visit of 200 horsemen in a body from one of the neighboring communes, where an agricultural society has been formed and where a lively interest in agricultural matters has been developed through the instrumentality of the demonstrator assigned to that locality. The station has its own water supply, a well with windmill. Besides the dwelling house there is a barn, a dipping tank for cattle, a plant house, and the only silo in the country. The Animal Industry Bureau is, unfortunately, not yet fully established owing to the withdrawal by Mr. S. Durham of his acceptance of appointment as its head. Some work, however, is going on in that direction, and as soon as a suitable head for the bureau can be found more progress will be made. A study of the conservation of the forests of the Republic has been instituted

¹ See enclosure to undated letter from the Secretary of the Navy, received Aug. 13, 1918, *post*, p. 377.

with a view to the issuance of an Executive order that, giving due consideration to the conditions here, will prevent wasteful methods. The forests as a whole have scarcely been touched, and it is the aim to put an adequate forestry law into effect to prevent any serious deforestation.

The new immigration law is not yet ready for issue, being still under study by different authorities with a view to its perfection. In the meantime an accurate card system containing complete information concerning every foreigner entering the country is being maintained both at the ports of entry and the office of the Department of Agriculture and Immigration. Proper records of immigrants have not hitherto been kept; this reform is a great advance and one that could be undertaken without any change in the law.

There is little to add regarding the prospects for minerals. Development has been going on in the vicinity of Azua of petroleum deposits in that region, and the latest reports indicate that the deposits there may be worked successfully. I have not seen the report of the expert from the United States Geological Survey who was recently in this country, but I understand that it is of a somewhat disappointing nature as regards the particular object for which he came—the discovery or development of minerals particularly applicable to war use. Prospecting is going on to a greater or less extent, and it seems probable that workable deposits of ores will be discovered and be developed with improved means of communication through the country.

The shipping situation remains about the same as at the time of the last report. The use of Navy transports (one for Santo Domingo) has somewhat eased the situation in respect of the cacao and tobacco crops, and the less important native products of hides and honey. The *Kittery* has already taken about 2,500 tons of native products to the United States and it is expected that she will take from 800 to 1,000 tons on each trip in future. In comparison with the total amount of exports in the country, estimated at 160,000 tons for the year, this relief may seem to be very small; but it is very real because the exports that the *Kittery* is taking are those that are grown by the Dominican people themselves, many in a small way. A large proportion of the total exports is sugar, the growth and sale of which brings more benefit to American capitalists than to the Dominican people.

Such beginnings as are possible are being made in the public health service. The unfortunate falling-off in revenue which, it is feared, will continue through the coming calendar year, has retarded the work of establishing the public health service, but the subject is being studied and such an organization as is possible is gradually being put into effect. With an improved financial condition of the Republic, more will be done, but the ground work is being laid now. Lieutenant Commander Reynolds Hayden, Medical Corps, United States Navy, a member of my staff, has taken over the direction of this work and has now so familiarized himself with the conditions that he is prepared to go ahead with it as fast as circumstances permit. Before relieving his predecessor he took an extended journey through the country which will be of very great advantage to him in carrying on his work.

The Dominican Central Railway has continued under the successful management of Mr. Collins, and the bridge over the Bajabonico River, nearly completed at the writing of the last report, is now entirely finished and traffic is going over it. The financial condition of the road is excellent. During Mr. Collins' incumbency he has carried on the work of repairs and betterments; has amassed a capital of \$75,000 for emergency needs which is drawing interest on deposit; and in addition to that has turned over a surplus to the Dominican Treasury of about \$26,000 as to the end of September 1918. This is a highly satisfactory performance.

The present strength of the Guardia Nacional Dominicana is:

United States Marine Corps.....	25
Officers.....	30
Enlisted men.....	1,095
Civilians (clerks).....	11
	1,161

The rifles mentioned above have now been received together with the necessary ammunition. A part of the Guardia has been very actively engaged during the last quarter in the suppression of banditry in the provinces of Seibo

and Macoris, where they have done excellent work. While I was in Washington I wrote, on August 2, a letter requesting the approval of the President of the United States to the suggested scheme of pay for the Guardia. This was presented to the President by the Secretary of the Navy; but on the very day that I was leaving Washington I was informed by the Secretary that the President desired some additional information, which I hastened to get. I had hoped that in the intervening six weeks I would have received Executive approval of my letter. It has not, however, arrived, nor has a radiogram of inquiry sent on September 19 elicited any response. The matter is one of real urgency, as many non-commissioned officers of the Marine Corps are serving and have been serving for over a year with the Guardia under circumstances requiring them to meet from their private purse expenses for which the additional pay recommended is intended to provide. I trust that if this matter has not been attended to when this report is received, it may have immediate and favorable consideration.

Improvements in postal matters have continued throughout the quarter, the reforms already instituted showing better and better results. New mail routes have been established, the time taken for transmission of mails has been reduced, and there is a very gratifying increase in the efficiency of the entire service.

An analogous improvement has been taking place in the Dominican National Telephone and Telegraph Service. Increased receipts are resulting not only from the new tariff but also from the greatly increased reliability of service, which is now being generally praised throughout the Republic; they were more than 83 per cent greater for the quarter than for the corresponding period in 1917. During the quarter physical connection with the Haitian lines was made and a tariff arranged for service between the two countries, which was inaugurated September 15. Two new steel radio towers with wooden topmasts have been erected, increasing the height and length of the aerial. This, with the new equipment for the radio station which has been ordered, is expected to increase the power materially.

The proposition is being seriously considered of placing under one bureau the postal and the telephone and telegraph services. This would result in great economy from the housing of both services together in the different places that both services reach, and in a decrease in the number of employees in many instances. It is believed that such a consolidation will add to efficient administration in other ways. The step has not yet actually been taken, but from preliminary study I now incline to believe that it will be deemed advisable to effect the consolidation in the near future.

The question of land titles remains in much the same condition as reported, as the studies on the subject have not been completed. The attention that Mr. Peynado can give to this matter is limited to time which he is able to devote to it from the demands of a very large practice. He is a man of such recognized ability, however, that I feel that the delay is worth while in order to have his very valuable advice. In Executive Order No. 207, already referred to, the sum of \$300,000 has been set aside for the purpose of making an accurate survey of the Dominican Republic. No such survey exists, and it is evident that an accurate survey lies at the foundation of all delimitations of land. The survey contemplated is of course not one which will, except incidentally, be of use to fix property limits, further than giving accurate points of departure to which cadastral surveys may be referred. With the issuance of this order, however, a long step may be considered to have been taken toward a final and satisfactory solution of the question of land titles.

Much satisfaction is felt because of the smooth manner in which matters under the Food Control are now running. The food situation in general is all that could be expected under food conditions existing throughout the world, and there is no noteworthy shortage. The merchants no longer show any marked tendency to oppose the control; they are, on the contrary, in most instances lending assistance to it, recognizing the fairness with which it is conducted toward business interests, as well as the fact that through it imported foods are being obtained that otherwise could only be secured with great difficulty, if at all, and that the distribution of food is vastly better than could possibly be effected without some measure of control.

Mr. Terry has remained in Santo Domingo throughout the quarter engaged in his study of the reform of the Civil Service, and has submitted a set of rules for Civil Service which has been commented upon by the officers administering the several departments and is now being studied by the Military Governor

himself prior to being put into effect. Mr. Terry will be obliged to return to Porto Rico within a few days; but it is hoped that he will, within a short time, consent to sever his connection with the service in Porto Rico and devote his whole attention to Civil Service in this Republic. It is doubtful if the Civil Service rules will be promulgated until Mr. Terry is in a position to direct the work of the Civil Service Commission which it is in contemplation to establish.

Among matters under the cognizance of the Department of Justice and Public Instruction that pertain especially to legal affairs, several Executive orders recommended by that Department have been issued, among which were Executive Orders Nos. 198 and 199 of August 27, 1918, regulating the practice of the profession of law. An unwritten rule of ethics has prevailed here that one lawyer would not accept a case against another, which resulted in practical civil immunity of all lawyers. One part of Executive Order No. 198 will, it is hoped, remedy this vicious rule. Executive Order No. 201 confers upon women the right to practice law. Executive Order No. 202 defines perjury and provides penalties; formerly there was no penalty for perjury committed outside of actual court proceedings.

During the quarter, the board on prisons has completed its work, but at the end of the quarter its report was not in finished shape ready for submission. Any far-reaching reform in prison conditions will involve a large expenditure, and one that the condition of the Treasury is probably not now prepared to meet. During the quarter, a selection was made of a site for the proposed leprosarium. No Executive order has been issued providing for the establishment of this leprosarium for the reason that a prominent Dominican family has promised to donate the site, and it has not been deemed expedient to do anything publicly that might embarrass this family in purchasing at a reasonable figure the land included in the site selected.

Some matters of interest worthy of mention are the following:

On July 1 the new law of licenses (*patentes*) went into effect. It was published in Executive Order No. 158 of May 4, 1918. The effect of the law has been, without any notable changes in rates, to increase the collections from about \$150,000 per annum to a sum of about \$475,000 (estimated) for the entire year. The funds obtained from this law are devoted entirely to educational purposes, and it will be seen what a very great reform was instituted by the Executive order.

On October 1, the new internal revenue law became effective. It combined in one a number of separate laws, and it is expected that under the new law there will be increased collections due rather to the full collection of taxes than to any change in rates. During the first half of 1918 internal revenue collections were \$805,383.18, and it is estimated that the total collections for the year will possibly be \$1,500,000; in 1915 they amounted to \$559,366.87, in 1916 to \$674,163.10, and in 1917 to \$1,234,177.32. During 1917 the entire Internal Revenue Department was reorganized; this, together with the placing of collections in the hands of an American which was done in the middle of 1916, has resulted in the great increase of internal revenue here noted.

In accordance with an old law, a census has been ordered to be taken in each commune by the Department of Interior and Police. This will not be a thorough census, but it is the best that can be done at the present time, lacking the funds for a census taken under national supervision.

Under the same Department a Bureau of Labor Employment has begun to make its influence felt, and I believe that it will, as experience is gained, prove a measure of great value to the country, to employers of laborers and to laborers themselves.

From time to time, as the office of *jefe comunal* has become vacant, the experiment has been tried of leaving the office unfilled; the results have been so satisfactory that the entire suppression of the office is believed to be a measure tending to the public good.

Troops of the brigade, assisted by the Guardia Nacional Dominicana, have engaged in field operations in the provinces of Seibo and Macoris during the quarter. Casualties among the Marines number five; one hospital corpsman was drowned crossing a river. The Guardia had no casualties. As previously noted, the bandits have not been entirely dispersed, but they are being kept on the move. As a measure in aid of the suppression of the bandits, inhabitants of certain outlying parts of these two provinces were advised to con-

centrate at the nearest large place, bringing a month's supply of provisions with them. The concentration was not mandatory, but the advice was very generally followed, the work being ably assisted by the native officials. It is a general opinion among the officers who have been engaged in these field operations that the natives in large measure will prefer to remain where they voluntarily concentrated rather than return to their homes, even when entire quiet has been established. One result of the concentration has been that one or more of the sugar estates, which ordinarily have great trouble in getting labor supply, are finding it entirely possible to provide their necessary labor without having to import laborers, as has been the annual custom hitherto.

During the quarter, Lieutenant Commander Baughman, who is administering the two Departments of Fomento y Comunicaciones, and Agricultura e Inmigración, accompanied by Mr. Collett, the Director of Public Works, and by Mr. Acevedo, a Dominican engineer who is the technical adviser of the Department of Fomento y Comunicaciones, made an official journey through the interior, touching at a number of places where the inhabitants told him no Government officials had ever before betrayed any interest in their welfare by a personal inspection. The journey was largely undertaken with a view to public works in progress or in contemplation; but the Department of Fomento y Comunicaciones is charged with the administration of postal affairs and of telephones and telegraph, and to both of these Lieutenant Commander Baughman gave attention during the journey. Another important purpose of his tour was the awakening of interest in agriculture, which is also under his cognizance. I believe from the reports of the journey that it has been a measure of the greatest good, assuring the people of the Dominican Republic of the aims of the Military Government and of its interest in their welfare.

Within a very few days Brigadier General Pendleton, who will shortly retire from the command of the brigade, accompanied by Brigadier General Fuller, the officer ordered to relieve him, will make a somewhat similar visit to the northern part of the country. Quite apart from the value of this visit as one of military inspection, I consider that it will have a great and good effect from the contact of these officers with the Dominican people, and their expression to Dominicans of the aims of the Military Government.

At about the same time it is my intention to send Civil Engineer Whitman, of my staff, accompanied by Mr. Acevedo, on a visit to Barahona and Azua provinces in connection with public works of interest there. As was the case during the journey of Lieutenant Commander Baughman, these gentlemen will also have as a second and no less important duty the manifestation to the people of the interest of the Military Government in their welfare and prosperity.

At about the middle of October Commander Hagner, Pay Corps, United States Navy, will leave for Washington on duty, and will visit Sanchez, La Vega, Moca, Santiago and Puerto Plata *en route*, where it will be arranged that he can meet officials and business men and give them first-hand information regarding the matters that have been under his especial cognizance as the administrator of the Department of Hacienda y Comercio, and the director of Food Control. He is also thoroughly in touch with the general administration of affairs, and will still further interpret the Military Government to the Dominican people.

At a later period, when his services can be spared, it is my further intention to have Colonel Lane, United States Marine Corps, who is administering the Department of Justice and Public Instruction, make an extended journey through the country, accompanied by the Superintendent of Education. Colonel Lane's visit will have an excellent effect, and not only on educational matters; for he will also interest himself in matters pertaining to the judicial affairs of the country, and like every other representative of the Military Government coming from the Capital, he will carry to the people a new expression of the objects for which the Military Government is working.

I regard these visits as measures of great importance. It has not hitherto been practicable to arrange for such journeys, but with the increasing tranquillity of the country and the general settling down to a routine of peace and good order, it now becomes possible to spare officers from the seat of the Government. My own visit through the northern part of the country on my return from Haiti in March convinced me of the great value of such personal contact, and it is my intention in the future to have officers go from the Capital from time to time carrying with them direct to the people in

outlying places the ideals of the United States in assisting the Dominican people to live under improved conditions.

The relations of the Military Government with the American Minister and his staff and with the American treaty officials here have continued most cordial, and it is a pleasure to acknowledge the fine spirit of cooperation that has prevailed.

H. S. KNAPP

FINANCIAL AFFAIRS

**Proposal for a Bond Issue to Pay Claims against the Dominican Republic
Adjudicated by the Claims Commission Appointed in 1917¹**

File No. 439.00/25

The Minister in the Dominican Republic (Russell) to the Secretary of State

No. 289

SANTO DOMINGO, January 29, 1918.

SIR: I have the honor to report that the Dominican Claims Commission of 1917 had registered, at the close of December 31, 1917, 8,748 claims aggregating \$14,156,518.66.

Claims for salary, pensions, retired pay, etc., which had not passed from the hands of the original creditors amounted to \$1,184,764.50.

The commission is now about to proceed with the adjudication of the claims, but prefers to make no awards until some means of payment has been determined upon.

I am enclosing herewith copies and translations of the report of the commission to the Military Government containing its recommendations in regard to the liquidation of the awards.

I have [etc.]

WILLIAM W. RUSSELL

[Enclosure—Translation]

The Dominican Claims Commission to the Military Government

SANTO DOMINGO, January 24, 1918.

1. As a basis for renewing its recommendation regarding the liquidation of the awards to be made by the Dominican Claims Commission of 1917, submitted under date of August 11, 1917, and to which reference is respectfully invited, the commission respectfully submits the following report:

2. *Claims presented.*—Under the terms of the Executive Order No. 65 the period for presentation of claims expired on December 31, 1917, on which date there had been presented a total of 8,748 claims representing a total face value of \$14,156,518.66. There will be a few other claims to add to this not yet formally presented but of which notice was received prior to the expiration of the time limit. The total face value of claims presented will also be increased due to the fact that some of the claims as presented are for indeterminate amounts to be ascertained later.

3. *Nature of claims.*—For convenient reference, the claims as presented may be classified under five general headings, as follows:

- (a) Salaries and similar budget items, including pensions, superannuations, endowments, municipal subsidies, wages, costs of material and lighting;
- (b) Supplies (*suministros*), including balances due in accounts current to commercial firms in the United States and elsewhere;
- (c) Damages and injuries;
- (d) Banks and bankers and amounts borrowed by the Government from other sources;
- (e) Stamped paper, stamps, and postage stamps which were given as a guarantee for loans or sold outright at a discount.

¹ Continued from *Foreign Relations*, 1917, pp. 720-29.

4. In its preliminary work the commission has not attempted to register the claims as presented according to that classification, and no attempt has been made to ascertain the total amount represented by each class. It is the intention of the commission to classify and register them under the appropriate heading at the time the awards are made, so that the final report will show the totals of each class.

5. *Preferred claims.*—In discussing this matter with the head of the Military Government in the latter part of December, the commission informally expressed the opinion that it would be desirable, if possible, to give preference to and arrange prompt payment of the claims for salaries and the other items included in subparagraph (a) of the preceding paragraph 3 which are still in the hands of the original creditors. A preliminary examination of the claims presented under that heading shows a total of \$1,184,764.50, face value, of such claims not transferred, that is, still in the hands of the original creditors. In this connection, it is stated that there are included in that amount a great many claims presented by officers and enlisted men of military organizations, which are of doubtful validity, and it appears safe to assume that the total awards of such claims will not be in excess of \$1,000,000. The commission now makes formal recommendation that that class of claims be accorded preferential treatment and that arrangements be made for the prompt payment of same in cash as soon as the awards are made by the commission.

6. *Probable amounts of awards.*—The commission expressed the opinion in paragraph 3 of its recommendation of August 11, 1917, that in all probability all of the claims presented could be equitably liquidated within a total of not to exceed \$5,000,000. In view of the amount of salary claims still in the hands of original creditors, it now appears advisable to estimate that the total of all awards will not exceed \$6,000,000. This opinion is based upon the act, as disclosed by preliminary examinations, that a great many of the claims, particularly of classes (b), (c), (d), and (e), are not well founded and can not be substantiated by the claimants. However, in providing for the payment of the awards it would be better to overestimate rather than underestimate the probable amount required with the understanding that only such part of the amount authorized as may be necessary will be utilized.

7. *Method of payment.*—It is noted that the budget which became effective January 1, 1918, includes the following items:

- (a) A reserve fund represented by the balance on hand, December 31, 1917, of approximately \$1,600,000.
- (b) A sum of \$375,000 is shown as segregated for probable use in the service of a new loan, understood to refer to a loan for the purpose of paying the awards of the Claims Commission.
- (c) Balance of estimated income for the year 1918, not appropriated, \$210,466.73.

The amount set aside for the service of a new loan and the unappropriated balance therefore represent an available total of \$585,466.73, in addition to the reserve fund of \$1,600,000.

8. From this it is apparent that the Government is in position, if it so desires, to pay in cash all of the untransferred salary claims, including the similar items above mentioned and to provide a sinking fund for interest and amortization of a loan or bond issue in the principal amount of not to exceed \$5,000,000 for the payment of all other awards.

9. *Recommendation.*—For obvious reasons it is advisable and desirable that a definite arrangement be made as soon as possible for the payment of the awards to be made by the commission. The commission is now in position to adjudicate the claims and to make the awards but, for equally obvious reasons, it considers it advisable not to make any awards until the Government has made arrangement for the payment of same. As hereinbefore stated, the commission formally recommends the payment in cash of untransferred salary and similar claims, and with that exception renews its recommendation in paragraph 7 of letter dated August 11, 1917, as follows:

That the Government arrange for the issuance of bonds in the principal amount of not to exceed \$5,000,000, or such part thereof as may be necessary to be applied to the liquidation of awards upon claims to be approved by the commission. Such bonds to be in coupon form, not registered, to bear interest at the rate of 5 per cent per annum, interest pay-

able semiannually on January 1, and July 1, the bonds to be dated and draw interest from January 1, 1918, and to mature on January 1, 1938, but to be redeemable at par on any first day of January beginning January 1, 1919, in such amounts as the funds available in the sinking fund provided for the purpose will permit, the bonds to be redeemed to be drawn by lot, and when so redeemed, to be permanently retired and canceled; the payments into the sinking fund for the purpose of amortization to be not less than 5 per cent of the principal amount each year.

10. The only change suggested in that recommendation is that the bonds should be redeemable on each interest date, that is semiannually instead of annually, and that instead of being drawn by lot, they be redeemed in their sequence by series, retiring the smaller denominations first and the larger ones last.

11. *Consent of the United States to the proposed plan.*—The refunding of the heretofore unacknowledged floating indebtedness of the Dominican Republic, and the issuance of bonds in satisfaction of the awards to be made by the Dominican Claims Commission of 1917, constitutes, in the opinion of the commission, an increase of the public debt of the Dominican Republic, within the meaning of the terms of the American-Dominican convention, of February 8, 1907, requiring an agreement between the Dominican Government and the United States as a condition precedent to the increase of the public debt and to the validity thereof.

The commission respectfully suggests that steps be taken to secure the express and unqualified consent of the proper authorities of the United States to the increase of the public debt of the Dominican Republic, in the manner described and for the purposes specified in this preliminary report and in the proposed Executive order accompanying same.

The commission further recommends that the Secretary of State of the United States be respectfully requested to give such instructions and to grant such authorization and powers as may be necessary or convenient, to the General Receiver of Dominican Customs, to enable the said official to perform such duties as may be assigned to him under the terms of the proposed Executive order. In this connection your attention is invited to the previous recommendation of the commission, in paragraph 6 of the report of August 11, 1917.

12. For the consideration of the Military Governor there is attached hereto a draft of a proposed Executive order, which the commission believes will provide for the plan of payment as recommended.

Respectfully submitted,

J. H. EDWARDS, President

MARTIN TRAVIESO, JR.

M. DE J. TRONCOSO DE LA CONCHA

J. T. BOOTES

EMILIO C. JOUBERT

JOHN BREWER
Secretary

File No. 439.00/27

The Minister in the Dominican Republic (Russell) to the Secretary of State

No. 306

SANTO DOMINGO, March 4, 1918.

SIR: In reference to my No. 289 of January 29, enclosing copies and translations of the report of the Dominican Claims Commission of 1917 to the Military Government with recommendations as to the manner of liquidating the awards, I now have the honor to call to the Department's attention again this important matter.

I am decidedly of the opinion that the commission's recommendations should be approved at once, or at least in so far as concerns the unpaid back salaries, etc., which have not passed from the hands

of the original holders who rendered the services. We can not allow the people of this country to believe that this commission is not going to afford relief to just claimants who have so long been defrauded of their dues.

The payment of these particular claims will cause an excellent impression in this country and undoubtedly add to our prestige.

The Military Government has on hand at present a cash balance of about \$2,000,000, and it certainly seems no more than just that from this sum an amount should be set aside for the purpose above mentioned.

The issuance of bonds to the amount of \$5,000,000 for the payment of the additional awards of the commission is a matter that should receive immediate serious attention after the payment of the preferred salary claims above mentioned has been assured.

I have [etc.]

WILLIAM W. RUSSELL

The Secretary of State to the Secretary of the Navy (Daniels)

WASHINGTON, March 25, 1918.

SIR: I have the honor to enclose a copy of a despatch from the American Minister at Santo Domingo City in which he refers to the recommendations made by the Dominican Claims Commission of 1917 to the Military Government of the Dominican Republic as to the method of liquidating the awards of the commission. The Minister states that he is strongly of opinion that the recommendations of the commission should be immediately approved, at least so far as concerns the unpaid back salaries of Dominican officials where that debt has not passed from the hands of the original holders who rendered the services.

I share the views expressed by the Minister as to the advisability of the payment of the awards and would be glad to be informed as to the steps taken or contemplated by the Military Government in this respect.

I have [etc.]

ROBERT LANSING

File No. 839.51/1958

The Secretary of the Navy (Daniels) to the Secretary of State

WASHINGTON, undated.

[Received May 8, 1918.]

SIR: I have the honor to forward herewith for consideration and for such action as may be deemed advisable by the Department of State, a letter dated May 2, 1918, from the Military Governor of Santo Domingo relative to the indebtedness of the Dominican Republic, and requesting that the public debt of that country be increased by such an amount as shall be found by the Dominican Claims Commission of 1917 to be justly due claimants.

Sincerely yours,

JOSEPHUS DANIELS

[Enclosure]

The Military Governor of Santo Domingo (Knapp) to the Secretary of the Navy (Daniels)

WASHINGTON, May 2, 1918.

At the time when military government was proclaimed, the Dominican Republic had increased its public debt contrary to the provisions of Article 3 of the treaty concluded February 8, 1907, which requires the consent of the United States to any such increase. Such consent had not been obtained and this neglect of the Dominican Government was, indeed, one of the principal reasons for the intervention of the United States.

2. In January 1917, within two months after the proclamation of military government, I wrote requesting that a claims commission be appointed to pass upon claims of indebtedness against the Dominican Republic in order that this indebtedness might be cleared up. I was directed to appoint such a commission myself, which was done. The commission has been at work for over nine months upon claims whose nominal aggregate is over \$14,000,000.

3. The action of the United States Government in directing the appointment of a claims commission gives inferential approval to such increase of the public debt of the Dominican Republic as shall result from the aggregate of claims approved by the commission. No formal, specific authorization for the increase has ever been made, however, and it appears wise that such formal, specific authorization should be given.

4. As the Military Governor of Santo Domingo, and acting for the Dominican Republic, I therefore request that the State Department specifically authorize the increase of the public debt of the Dominican Republic by such an amount as shall be found by the Dominican Claims Commission of 1917, now in session, to be justly due claimants.

H. S. KNAPP

The Secretary of State to the Secretary of the Navy (Daniels)

WASHINGTON, May 25, 1918.

SIR: I have the honor to acknowledge the receipt of your letter undated enclosing, for the consideration of this Department and for such action as may be deemed advisable, a letter dated May 2, 1918, from the Military Governor of the Dominican Republic, regarding the indebtedness of that country and urging that the public debt of the Republic might be increased by such an amount as the total found due to the claimants by the Dominican Claims Commission of 1917.

I have the honor to say, in reply, that this Department does not appear to be in possession of copies of the correspondence relative to the appointment of the Claims Commission referred to by the Military Governor of the Dominican Republic in paragraph 2 of his communication of May 2, 1918, and that it would appreciate being supplied with such copies for use in considering the Governor's request for authorization of an increase in the public debt of the Dominican Republic.

The Department will also appreciate being informed whether it is proposed to pay the awards of the Claims Commission at the time when they are made, or to await the termination of the commission's labors before making any such payments.

I have [etc.]

ROBERT LANSING

File No. 439.00/34

The Acting Secretary of State to the Secretary of the Navy (Daniels)

WASHINGTON, July 19, 1918.

SIR: I have the honor to refer to your undated letter enclosing a communication of May 2, 1918, addressed to you by the Military Governor of the Dominican Republic, requesting that this Department specifically authorize the increase of the public debt of the Dominican Republic by such an amount as shall be found to be due claimants by the Dominican Claims Commission of 1917, which, it appears, is now in session; and also to your letter of July 5, 1918, transmitting a further letter of June 8, 1918,¹ from the Governor in which he suggests a method for liquidating such claims against the Republic as may be allowed by the Claims Commission.

The consent of this Government to the increase of the public debt of the Dominican Republic is requested pursuant to the provisions of the "convention providing for the assistance of the United States in the collection and application of the customs revenues of the Dominican Republic," concluded February 8, 1907, Article 3 of which reads as follows:

III. Until the Dominican Republic has paid the whole amount of the bonds of the debt, its public debt shall not be increased except by previous agreement between the Dominican Government and the United States. A like agreement shall be necessary to modify the import duties, it being an indispensable condition for the modification of such duties that the Dominican Executive demonstrate and that the President of the United States recognize that, on the basis of exportations and importations to the like amount and the like character during the two years preceding that in which it is desired to make such modification, the total net customs receipts would at such altered rates of duties have been for each of such [two] years in excess of the sum of \$2,000,000 United States gold.

It appears that the awards which it is stated the Claims Commission is prepared to make, as soon as means are available for the extinguishment of the claims allowed, will aggregate five or six million dollars. The Governor states that it is to the great interest of the United States, the Military Government, and of the claimants, many of whom are suffering embarrassment as a result of the deferred settlement, that payment should be made as soon as possible; that inasmuch as there is insufficient money in the Dominican Treasury to begin payment of the claims, and since a foreign loan can not be floated to advantage, if at all, by the Dominican Government at this time, and the Dominican Government having been unable to obtain assistance from the United States Treasury, he and his advisers have devised a plan whereby the Dominican Government shall issue to the claimants themselves, in payment of the awards, 20-year 5 per cent bonds in denominations of \$50, \$100, \$500 and \$1,000 each, and pay in cash all amounts of less than \$50.

The Governor states that bonds issued by the Dominican Government on its own responsibility alone would, on account of the low credit of the Dominican Government, be subject to considerable discount, and that it is therefore necessary that the United States should in some way be behind the issue. For this reason he proposes that

¹ Not printed.

the Executive order to be issued by him and the bonds themselves, drafts of both of which have been submitted, should contain a stipulation that the bonds are issued and the customs revenues (from which the interest and principal are to be paid) are pledged "with the consent of the Government of the United States," it being the view of the Governor that this indication that the bonds are issued in conformity with the terms of the above-mentioned convention of February 8, 1907, will lend to them an element of security.

In view of the Governor's statement regarding the customs receipts and disbursements, and of his assurance that in addition to providing for the present charges against such revenues, namely, those indicated in Article 1 of the convention of February 8, 1907, there are and will be in normal times ample income for the payment of interest and the providing of an amortization fund as indicated in Article 8 of the proposed Executive order, this Government approves the issuance by the present Government of the Dominican Republic of such bonds in payment of the awards of the Dominican Claims Commission.

This request of the Military Governor of Santo Domingo on behalf of the Dominican Republic and the concurrence of this Government therein may, it is believed, be taken to constitute, in the circumstances, the "agreement between the Dominican Government and the United States" required by Article 3 of the treaty of February 8, 1907, prior to the increase of the public debt of Santo Domingo in the manner proposed.

I have [etc.]

FRANK L. POLK

File No. 439.00/36

The Secretary of the Navy (Daniels) to the Secretary of State

WASHINGTON, undated.
[Received August 13, 1918.]

SIR: Referring to previous correspondence with your Department in connection with the liquidation of claims against the Dominican Republic, I have the honor to forward herewith two copies of Executive Order No. 193, together with Spanish translations thereof, issued by the Military Governor of Santo Domingo under date of August 2, 1918, in regard to the issue of bonds for the purpose of paying the awards made by the Dominican Claims Commission of 1917.

Sincerely yours,

JOSEPHUS DANIELS

[Enclosure]

Executive Order No. 193 of the Military Government of Santo Domingo, dated August 2, 1918

WHEREAS, the Dominican Claims Commission of 1917, created by Executive Order No. 60¹ for the purpose of investigating and adjudicating claims against the Dominican Republic, has rendered a preliminary report to the Military Governor covering the claims presented and registered but not yet adjudicated, showing that more than 8,800 claims have been presented representing a face value of about \$15,000,000, and

¹ *Foreign Relations, 1917*, p. 721.

WHEREAS, said Commission expresses the opinion that many of the claims will not be sufficiently substantiated to warrant payment of the full face value, as claimed, so that in all probability the liquidation of the awards to be made thereof will require a sum much less than the face value of the claims presented; and

WHEREAS, due to the abnormal conditions at present existing in all financial centers of the world, it is impracticable to negotiate a foreign loan for the purpose of providing for the payment in cash of said awards, and

WHEREAS, under the terms of the American-Dominican Convention of February 8, 1907, "until the Dominican Republic has paid the whole amount of the bonds of the debt its public debt shall not be increased except by previous agreement between the Dominican Government and the United States," and

WHEREAS, this increase has now been authorized, and the consent of the United States of America has been obtained for the liquidation of the floating indebtedness of the Dominican Republic hitherto unauthorized by the United States, when it shall have been adjudicated and the corresponding awards made by the Dominican Claims Commission of 1917:

Now, therefore, by virtue of the powers vested in the Military Government of Santo Domingo, and with the consent of the Government of the United States, the payment of the awards to be made by the Dominican Claims Commission of 1917 is hereby authorized and ordered to be made as follows:

1. The said Commission shall transmit all awards to the Secretaría de Estado de Hacienda y Comercio where they shall be registered and in turn transmitted to the Contaduría General de Hacienda for payment.

2. All awards made by said Commission shall be paid in bonds of the Dominican Republic, at par, with accrued interest, to be issued as hereinafter authorized; *provided, however*, that all fractional amounts of such awards of less than fifty dollars (\$50.00) shall be paid in cash. The cash payments herein provided for shall be made by checks drawn on the Designated Depositary for the Dominican Republic, chargeable to a special account to be opened for the purpose based on the appropriation authorized in paragraph three (3) hereof.

3. For the purpose of making the cash payments authorized in the preceding paragraph, such amount as may be necessary is hereby appropriated out of any moneys in the Treasury not otherwise appropriated.

4. For the purpose of paying in bonds the awards made by the Dominican Claims Commission of 1917, as authorized in paragraph two (2) hereof, the Contaduría General de Hacienda is hereby authorized, empowered and directed to issue bonds of the Dominican Republic, in the form and conditioned as hereinafter provided, to the amount that shall be necessary to pay such awards, which necessary amount shall not be exceeded. Said bonds shall be issued in settlement of the award in each case in the following order: first, Series M; second, Series D; third, Series C; and fourth, Series L; in the proportional amounts required to make up the total of the award. Upon the request of a holder of said bonds, the Contaduría General de Hacienda may issue one or more bonds of the larger denomination in exchange for bonds of the smaller denominations of equivalent value, but in no case shall bonds of smaller denominations be issued in exchange for a bond or bonds of larger denominations.

5. Said bonds shall be in coupon form, and may be in any or all of the following series and denominations: Series L, fifty dollars (\$50.00); Series C, one hundred dollars (\$100.00); Series D, five hundred dollars (\$500.00); Series M, one thousand dollars (\$1,000.00); and shall be numbered consecutively beginning with number one of each series. They shall bear the facsimile signature of the officer administering the affairs of the Secretaría de Estado de Hacienda y Comercio and the signature of the Encargado de la Contaduría General de Hacienda. They shall be dated January 1, 1918, and shall bear interest at the rate of five per cent (5%) per annum, which interest shall be payable semi-annually, on the first day of each January and of each July. The bonds shall be payable at par on or before January 1, 1938, in currency of value equivalent to gold coin of the United States of America of the present standard of weight and fineness, and said bonds shall become redeemable and shall be payable at par in such amounts on each interest date as the amount of the amortization fund, hereinafter provided for, available on such interest dates will permit: *provided* that the bonds shall be so redeemed and paid by series as follows: first, Series L; second, Series C; third, Series D; and fourth, Series M. The numbers of the bonds of each series to be so

redeemed shall be determined by lot at public drawing conducted by the Contaduría General de Hacienda at Santo Domingo City within one week on either side, of the first day of November, or May, as the case may be, and notice of the series and numbers of such bonds to be so redeemed and paid shall be given by the Contaduría General de Hacienda to the Designated Depositary, hereinafter mentioned, thirty days in advance of each redemption date, and such notice shall be published at least once each week during the thirty days immediately preceding and following each redemption date in the Official Gazette of the Dominican Government and in one of the daily newspapers in the City of Santo Domingo, and in one of the daily newspapers in the City of New York. All interest upon the bonds so selected for redemption shall cease from and after the designated date of redemption. Both principal and interest shall be payable either in Santo Domingo City, at the principal office of the Designated Depositary for the Dominican Republic, or at any of its branch offices in the Dominican Republic, or at its office in the City of New York.

6. The said bonds are hereby declared to be exempt from the payment of taxes of any kind whatsoever of the Government of the Dominican Republic or of any local authority therein.

7. For the payment of the interest on said bonds, as it falls due, and of the principal, the good faith of the Dominican Republic is hereby irrevocably pledged, and said bonds and the obligations created thereby, shall not be impaired by any law or decree which the Government of the Dominican Republic or any authority thereof may subsequently enact or issue, or by any interpretation thereof, or by any interpretation of any law or decree heretofore enacted or issued, but said bonds when duly issued shall constitute a legal and binding obligation on the Government of the Dominican Republic until properly redeemed and paid.

8. There is hereby pledged, with the consent of the Government of the United States, from the customs revenues of the Dominican Republic, such amounts as may be required for the payment of the stated interest of said bonds; and, to the amortization fund for the redemption and payment of said bonds on the redemption dates hereinbefore provided, the further sum per annum, to be deposited in equal monthly installments, beginning January 1, 1918, of an amount equal to one-twentieth of the total amount of the bond issue. The sums pledged in this paragraph shall constitute an additional charge upon all customs revenues of the Republic collected in accordance with the convention of February 8, 1907, between the United States of America and the Dominican Republic, after their application to the first four objects designated in Article 1 of that convention, and before any payment is made to the Dominican Government. Additional payments for account of the amortization fund herein provided may be made at any time by the Dominican Government in its discretion.

9. The General Receiver of Dominican Customs is hereby authorized to make monthly deductions, commencing January 1, 1918, from the customs receipts of the Dominican Republic, to cover the amounts referred to in the preceding paragraph, and in accordance with the official advice thereof furnished him by the Contaduría General de Hacienda, and immediately to deposit said amounts with the Designated Depositary for the Dominican Government in a special account entitled "Dominican Republic 5 per cent Bond Issue 1918"; and such monthly deductions and deposits shall be regularly continued by the General Receiver of Dominican Customs until all of the bonds herein provided for shall have been redeemed and paid.

10. The foregoing provisions in regard to the payment of interest on said bonds, and of the principal, shall be deemed to be in the nature of a continuous appropriation, and no further appropriation for such purpose shall be required. The General Receiver of Dominican Customs is authorized to make such deductions and deposits; the Designated Depositary for the Dominican Republic is authorized and directed to make such payments; and the Contaduría General de Hacienda is authorized and directed to allow due credits in accounts therefor.

11. The Designated Depositary shall render accounts to the Contaduría General de Hacienda covering the periods ending June 30th and December 31st, of each year, of all receipts, accruals of interest, and payments from the account "Dominican Republic 5 per cent Bond Issue 1918," and shall surrender with such statements of account all coupons and bonds redeemed and paid. Upon verification of such accounts the Contaduría General de Hacienda shall

make entry thereof, allow credit in account therefor, and cancel and destroy the coupons and bonds so received.

12. Such funds as may be necessary to defray the expense of printing the bonds, advertising notices relating thereto, and other expenses incidental to the issuance, redemption, and cancellation thereof, are hereby appropriated out of any moneys in the Treasury not otherwise appropriated.

H. S. KNAPP, *Rear Admiral, United States Navy
Military Governor of Santo Domingo*

Issued at Washington, D. C., U. S. A.,
by authority of the Government of the United States,
2 August 1918

**PROPOSED REVISION OF THE CUSTOMS TARIFF OF THE
DOMINICAN REPUBLIC**

File No. 639.003/44

The Secretary of State to the Secretary of the Navy (Daniels)

WASHINGTON, February 25, 1918.

SIR: I have the honor to acknowledge receipt of your note of February 4, transmitting a despatch from the Military Governor of Santo Domingo, requesting an amendment of Article 6, paragraph 8, of the Dominican traffic [tariff] law to permit the importation of certain necessary articles, and requesting that the Navy Department be informed of the action taken.¹ In this connection this Department considers that the question of the amendment of Dominican law is one to be initiated and determined by the Military Government of Santo Domingo, subject to the approval of the Department of State.

It is requested that the Military Governor, Admiral Knapp, be informed of the above and that this Department approves the desired amendment.

The Department has under consideration the question of the addition of cotton-spraying machines and stump pullers to the list of agricultural instruments to be exonerated from duty and will inform you later in this connection.

I have [etc.]

For the Secretary of State:

ALVEY A. ADEE
Second Assistant Secretary

File No. 639.003/47

Memorandum of the Office of the Solicitor for the Department of State

WASHINGTON, February 28, 1918.

DEAR MR. WOOLSEY: I am not informed as to the conversation which, it appears, you have had with a representative of the Latin American Division on this subject, but I submit the following observations respecting the request of that Division that this office

¹ Not printed.

draw up an agreement between the United States and the Military Government of the Dominican Republic:

which will provide for the recognition of the President of the United States of modifications in the import duties of the Dominican Republic that may from time to time be recommended as needful by the Military Government there, and thus make any such action by the Military Government conform to Article 3 of the convention of 1907.

The treaty provisions referred to are as follows:

Until the Dominican Republic has paid the whole amount of the bonds of the debt, its public debt shall not be increased except by previous agreement between the Dominican Government and the United States. A like agreement shall be necessary to modify the import duties, it being an indispensable condition for the modification of such duties that the Dominican Executive demonstrate and that the President of the United States recognize that, on the basis of exportations and importations to the like amount and the like character during the two years preceding that in which it is desired to make such modification, the total net customs receipts would at such altered rates of duties have been for each of such two years in excess of the sum of \$2,000,000 United States gold.

If I understand it correctly, the desire of the Latin American Division is that a blanket agreement be made under these treaty provisions to cover all modifications recommended by the Military Government. In view of the treaty requirements as to the demonstration by the Dominican Executive and the recognition by the President of the United States of a certain state of facts as to customs receipts, it would seem that the desired blanket agreement could not well be made and that in case of any particular modification in the import duties desired by the Military Government, such demonstration and recognition would have to take place before an agreement could be made in the particular instance.

By reference to the attached papers¹ it will be seen how this matter of modification of import duties was dealt with at that time, in accordance with the treaty requirements mentioned, namely, by note from the Dominican Minister advising of the proposed changes in duties and making the demonstration mentioned, and by an answering note from the Secretary of State, embracing the recognition by the President of the fact required to be demonstrated, and, therefore, the agreement of the Government of the United States to the proposed modification.

On the other hand, it is recognized that the Latin American Division may have in mind that the United States Government and the Military Government of Santo Domingo, in their relations with each other, are not bound by the requirements of the treaty mentioned, and that, therefore, it is advisable to make a new agreement to take the place of the provisions of Article 3 of the treaty, which shall, at the same time, conform as nearly as possible thereto. If that be the view which the Department takes of the relationship in question, I should be glad to be so advised since I had supposed that the Military Government represented the Government of the Dominican Republic and, as such representative, is bound by the treaties in force with the Republic.

J[OSEPH] R. B[AKER]

¹ *Foreign Relations, 1911*, pp. 139-40.

File No. 839.00/2099

Memorandum of the Office of the Solicitor for the Department of State

WASHINGTON, March 18, 1918.

RELATIONSHIP OF THE MILITARY OCCUPATION AND GOVERNMENT IN THE DOMINICAN REPUBLIC TO THE DOMINICAN GOVERNMENT

The question has arisen as to whether it is necessary for the Government of the United States to conclude an agreement with the Military Government in the Dominican Republic, installed by the authority of the United States, to cover a subject which is provided for by Article 3, of the treaty of 1907, between the United States and the Dominican Republic. In other words, if the existing treaty provisions be held to be now in effect as between the United States and the Military Government mentioned, it apparently becomes unnecessary to conclude a new agreement on the subject in question, which is that of modification of the tariff duties of the Dominican Republic.

The present intervention of the United States in the affairs of the Dominican Republic took place formally on November 29, 1916, but certain previous events are of interest and importance in reviewing the question under consideration.

The treaty of 1907, before mentioned, was entered into as expressed therein, in order to arrange for a settlement of the financial difficulties of the Dominican Republic, and provides:

III. Until the Dominican Republic has paid the whole amount of the bonds of the debt its public debt shall not be increased except by previous agreement between the Dominican Government and the United States. A like agreement shall be necessary to modify the import duties, it being an indispensable condition for the modification of such duties that the Dominican Executive demonstrate and that the President of the United States recognize that, on the basis of exportations and importations to the like amount and the like character during the two years preceding that in which it is desired to make such modification, the total net customs receipts for each of such two years, at such altered rates of duties, would have been in excess of the sum of \$2,000,000 United States gold.

Despite the interest taken by the United States in Dominican financial affairs, under the treaty provisions above quoted, it appears that during the year 1915, and before, general conditions in the Dominican Republic were bad. There was injudicious expenditure of money, an increase in the public debt, and maladministration. Consequently, on December 17, 1915 [September 17, 1915],¹ the American Minister to the Republic was instructed by the Department to endeavor to obtain the conclusion of a new treaty, providing for a financial adviser, to be appointed by the United States, and a constabulary officered by Americans, for the settlement by arbitration of pecuniary claims, and the survey of the Republic for purposes of taxation, and for the right of the United States to intervene in the Republic for the maintenance of a government adequate to protect life, liberty, and property. The Minister was further instructed that if he should find it impossible to conclude such a treaty, he should present a note containing the interpretation of the Government of the

¹ *Foreign Relations, 1915*, p. 321.

United States, of said Article 3 of the treaty of 1907, as giving the United States the right to appoint a financial adviser to the Dominican Republic, and to organize a constabulary to be commanded by American officers, in place of the existing military organization.¹

The occasion having arisen, such a note was presented on November 9 [19], 1915,² which was replied to by the Minister of Foreign Affairs, denying that such right of intervention existed, and refusing to take the desired action.³ Thereafter matters went from bad to worse in the Republic, until on or about May 2, 1916, revolutionary forces gained possession of the Capital. On May 5, 1916, forces were landed from the U. S. S. *Prairie*, and on May 6. the President of the Republic requested the United States to take the Capital,⁴ but the next day canceled this request and resigned his office.⁵ Notwithstanding such cancelation, the forces mentioned occupied the Capital on or about the day last mentioned.

Following the resignation of the President, the Council of Ministers took charge of the executive power, supported by the forces of the United States, until some weeks thereafter, when the Dominican Congress elected Doctor Francisco Henriquez, Provisional President, whose authority was never recognized by the Government of the United States.

Under date of June 20, 1916, Admiral Caperton, "the Commander in Chief of forces of the United States in Santo Domingo," issued a proclamation stating that such forces had entered the Republic "for the purpose of supporting the constitutional authority, and of putting a stop to revolutions and consequent disorder impeding the progress and prosperity of the country."⁶ The proclamation further stated that it was the intention to occupy immediately other "towns of the Republic" and that "it is not the intention of the United States Government to acquire, by conquest, any territory in the Dominican Republic, nor to attack its sovereignty, but our troops will remain here until all revolutionary movements have been stamped out, and until such requirements as are deemed necessary to insure the future welfare of the country have been initiated and are in effective operation."

During the latter part of June 1916 the Council of Ministers was officially advised by the American Minister that the Government of the United States had decided to take charge of the collection and disbursement of all funds of the Dominican Government, placing these matters in the hands of the General Receiver, and on August 17 [18?], 1916, the latter official was instructed to suspend payment of all funds to the Dominican Government until an understanding could be reached as to an interpretation of certain articles of the treaty of 1907, or until the Government of Doctor Henriquez was recognized by the United States.⁷ This suspension of payment continued until after the formal intervention of the United States. (See memoran-

¹ *Foreign Relations*, 1915, p. 325.

⁴ *Ibid.*, 1916, pp. 224-25.

² *Ibid.*, p. 333.

⁵ *Ibid.*, p. 231.

³ *Ibid.*, p. 337.

⁶ *Ibid.*, p. 252.

dums prepared by the Latin American Division and Minister Russell.)¹

On November 26, 1916, the President of the United States authorized the Secretary of State to give the necessary instructions to place the Dominican Republic under military occupation and declare martial law, and approved a recommendation made by the Secretary, upon a memorandum of the Latin American Division, stating that the action in question should be based "on the interpretation which the United States has given to the Dominican convention of 1907, and also upon the present unsettled conditions in the Republic." The President also approved, with a trifling exception, a draft proclamation to be issued by Captain Knapp of the Navy, who was to be placed in charge of the Military Government.²

Under date of November 27, 1916, the Secretary of the Navy was requested to take such action as might be necessary, to put into effect the policy just outlined.²

Captain Knapp's proclamation, issued November 29, 1916, contains, among others, the following provisions:³

WHEREAS: The Government of Santo Domingo has violated the said Article 3 (of the treaty of 1907) on more than one occasion; and . . .

WHEREAS: The United States Government, with great forbearance and friendly desire to enable Santo Domingo to maintain domestic tranquility and observe the terms of the aforesaid treaty, has urged upon the Government of Santo Domingo certain necessary measures which that Government has been unwilling or unable to adopt, and

WHEREAS: In consequence domestic tranquility has been disturbed and is not now established, nor is the future observance of the treaty by the Government of Santo Domingo assured; and

WHEREAS: The Government of the United States is determined that the time has come to take measures to insure the observance of the provisions of the aforesaid treaty by the Republic of Santo Domingo and to maintain domestic tranquility in the said Republic of Santo Domingo necessary thereto:

Now, therefore, I, H. S. Knapp, Captain, United States Navy, Commanding the Cruiser Force of the United States Atlantic Fleet, and the armed forces of the United States stationed in various places within the territory of the Republic of Santo Domingo, acting under the authority and by the direction of the Government of the United States, declare and announce to all concerned that the Republic of Santo Domingo is hereby placed in a state of Military Occupation by the forces under my command, and is made subject to Military Government and to the exercise of military law applicable to such occupation.

This military occupation is undertaken with no immediate or ulterior object of destroying the sovereignty of the Republic of Santo Domingo, but, on the contrary, is designed to give aid to that country in returning to a condition of internal order that will enable it to observe the terms of the treaty aforesaid, and the obligations resting upon it as one of the family of nations.

Dominican statutes, therefore, will continue in effect in so far as they do not conflict with the objects of the Occupation or necessary regulations established thereunder, and their lawful administration will continue in the hands of such duly authorized Dominican officials as may be necessary, all under the oversight and control of the United States Forces exercising Military Government.

The ordinary administration of justice, both in civil and criminal matters, through the regularly constituted Dominican courts will not be interfered with by the Military Government herein established: . . .

All revenue accruing to the Dominican Government . . . shall be paid to the Military Government herein established which will, in trust for the Republic of Santo Domingo, hold such revenue and will make all the proper

¹ Not printed. File Nos. 839.00/1896, 1941.

² *Foreign Relations*, 1916, p. 242.

³ *Ibid.*, p. 246.

legal disbursements therefrom necessary for the administration of the Dominican Government, and for the purposes of the Occupation.

The Forces of the United States in Occupation will act in accordance with military law governing their conduct, with due respect for the personal and property rights of citizens of, and residents and sojourners in, Santo Domingo, upholding Dominican laws in so far as they do not conflict with the purposes for which the Occupation is undertaken.

Under date of December 14, 1916, the American Minister at Santo Domingo telegraphed the Department in part, as follows:

If the Military Government continues, the status of Legation must be clearly defined. From the fact that I have returned, Dominicans are convinced that their sovereignty is not imperilled. Knapp is an excellent man for the situation and he has always conferred with me, and there is no friction whatever, but the Department will readily understand my position.

In reply the Department telegraphed the Minister, on December 29 [20], 1916:¹

Position of Legation should be practically same as before proclamation of Military Government, and it should be understood that it is civil representative of American Government in Santo Domingo, and will advise on all points with Military Government, which is carrying on the government for the Republic.

Under date of April 27, 1917, the Navy Department forwarded a copy of an order of Captain Knapp dated April 7, 1917, to the Commander, Second Provisional Brigade, United States Marines, in which the following language was used:

A state of war between the United States and Germany has been declared by Congress. Inform all posts under your command and take all military precautionary steps demanded by the situation.

The Germans and their allies in the Dominican Republic will be kept under closest observation. They may not, however, be interned by reason of the treaty of engagements between the United States and the German Empire, and of the further fact that the attitude of the Dominican Government should be that of a neutral, in so far as the existing circumstances of the Military Government permit.

On August 8, 1917, the Navy Department forwarded a copy of the Annual Report of the Military Government of the Dominican Republic "from date of proclamation, November 29, 1916, to June 30, 1917." The report contains the following statements:²

After the issuance of the proclamation of the Military Government, I waited for some days to see if the members of the Provisional Government would in any way cooperate with the Military Government in carrying on the ordinary administration of affairs. The hope I had in this direction proved to be unfounded. . . . It was an evident case of desertion (by the officials of the Provisional Government). Under the circumstances, as the affairs of Government had to go on under intelligent administration, I placed the several departments of the Dominican Government in charge of officers under my command. . . . This action was forced upon me by the attitude of the members of the Dominican Government. It did not appear possible to get Dominicans of the proper caliber who would accept these high administrative offices, for they were afraid of the criticism they would receive from their own people. . . .

I therefore, on January 2, suspended the Congress and likewise suspended from office senators and deputies whose terms had not expired.

I refused to recognize it (the new Constitution) and the calls for election that were issued in accordance with its provisions.

A postal convention has been concluded (by the Military Government) between the Dominican Government and the United States.

¹ *Foreign Relations*, 1916, p. 249.

² For extracts from this report, see *op. cit.*, 1917, pp. 709 *et seq.*

I caused the Department of Foreign Relations of the Dominican Government to cancel the exequaturs of German consuls and consular agents.

In the administration of Dominican Government affairs, it has been necessary from time to time to issue executive orders.

Executive Order No. 15 of December 29, 1916, has the following preamble:

In view of the fact that a large floating indebtedness has been incurred by the Dominican Republic without consent of the United States, and so in contravention of the American-Dominican Convention concluded February 8, 1907, and in view of the imperative necessity of administering the affairs of the Dominican Republic under the Military Government, and meeting its current obligations from current income, without incurring new indebtedness except as stipulated in the aforesaid American-Dominican Convention of February 8, 1907, and for the purpose of protecting alike all the creditors of the Dominican Republic, it is hereby ordered.

Order No. 20 suspends until further notice the office of Dominican Minister to the United States "as the existence of a Military Government in Santo Domingo renders unnecessary" the presence of such officer in Washington.

Order No. 53 requires "all salaried Consular officers of the Republic abroad" to account monthly for fees.

It seems clear that the military forces of the United States are occupying the Dominican Republic as the result of intervention on the part of the United States in the affairs of that Republic, based in part, as seen, upon the failure of the Republic to live up to its treaty obligations. Whether such intervention is, or is not, "of right" as that term is used in international law, in connection with interventions of this character, is not deemed to be pertinent to the purposes of this memorandum. In any event, international law recognizes as admissible, certain cases of intervention, which are not as "of right."

So far as concerns relations of the Military occupation and Government to the Dominican Government, it may be useful to consider the somewhat analogous case of the intervention of the United States Government, in 1906, in the affairs of Cuba, which intervention was, of course, "of right," granted by treaty.

In his proclamation announcing the establishment of a Provisional Government in Cuba, under such intervention, Provisional Governor Taft said:

In so far as is consistent with the nature of a provisional government established under authority of the United States, this will be a Cuban government conforming, as far as may be, to the constitution of Cuba. The Cuban flag will be hoisted as usual over the government buildings of the island. All the executive departments and the provincial and municipal governments, including that of the city of Habana, will continue to be administered as under the Cuban Republic. The courts will continue to administer justice, and all laws not in their nature inapplicable by reason of the temporary and emergent character of the Government will be in force. (*Foreign Relations*, 1906, part I, page 491.)

In decree No. 5 of October 3, 1906, it is set forth that—

First. The diplomatic representatives of the Republic of Cuba in foreign countries are confirmed in their respective positions and they shall continue in the discharge of their duties in representation of the Republic of Cuba under the provisional administration of the United States.

Second. The provisional government recognizes the foreign diplomatic representatives accredited to the Government of the Republic of Cuba, without the necessity of the formalities or any other steps for the change, and shall continue to maintain with the same, through the Department of State, the diplomatic relations. (*Ibid.*)

On October 13, 1906, Governor Magoon proclaimed that as Provisional Governor he would—

exercise the powers and perform the duties contemplated and provided for by the third article of the appendix to the constitution of Cuba, for the preservation of Cuban independence and for the protection of life, property, and individual liberty. (*Ibid.*, page 494.)

As seen above, the proclamation of November 29, 1916, issued by Captain Knapp, bases the action of intervention primarily upon the violation by the Dominican Republic of Article 3 of the treaty with the United States, asserts the determination of the United States to take measures to insure the observance of the treaty provisions, and states that the military occupation is undertaken with no object of disturbing the sovereignty of the Dominican Republic; that Dominican statutes will remain in force so far as they do not conflict with the purposes of the occupation, and be administered by duly authorized Dominican officials; that the ordinary administration of justice will not be interfered with, and that revenues received by the Military Government will be held in trust for the Dominican Republic, and disbursed "for the administration of the Dominican Government."

Furthermore, as above set forth, the Department has telegraphed Minister Russell that the Military Government is "carrying on the Government for the Republic"; Captain Knapp has proclaimed that in the existing World War "the attitude of the Dominican Government should be that of a neutral"; the Military Government for the Dominican Government has concluded a postal convention with the United States, and the terms and language of various executive orders show that the Military Government considers that it is the Dominican Government, including the said order of December 29, 1916, which expresses determination of the Military Government not to incur any indebtedness except as stipulated in the convention of 1907.

It therefore seems that in the occupation of the Dominican Republic the American forces constituting the Military Government are following the apparent example set by the Provisional Government in Cuba in 1906, viz., of representing for the time being the Government of the occupied country, and, generally speaking, of respecting the existing laws of the country. In other words, these interventions, as judged by the expression and actions of the Government of the United States and its military forces in occupation, seem to be of the nature referred to by Hall (*International Law*, 7th edition, page 293), when he states that: "In the case, moreover, of intervention in the internal affairs of a state . . . and it is frequently carried out in the interest of the Government" of the invaded state.

Authority of international law as to the conduct to be observed by a military occupant following the act of intervention in the internal affairs of a country appears to be lacking, unless such authority may be derived by analogy from the law bearing upon the case of military occupation of territory during war, as, for example, from the following provisions of Articles 43, 48 and 55 of the Hague convention of 1907, on the laws and customs of war on land:

The authority of the legitimate power having in fact passed into the hands of the occupant, the latter shall take all the measures in his power to restore and

ensure, so far as possible, public order and safety, while respecting, unless absolutely prevented, the laws in force in the country. (Article 43.)

If, in the territory occupied, the occupant collects the taxes, dues, and tolls imposed for the benefit of the state, he shall do so, so far as possible, in accordance with the rules of assessment and incidence in force, and shall, in consequence, be bound to defray the expenses of the administration of the occupied territory to the same extent as the legitimate government was so bound. (Article 48.)

The occupying state shall be regarded only as administrator and usufructuary of public buildings, real estate, forests, and agricultural estates belonging to the hostile state and situated in the occupied country. It must safeguard the capital of these properties and administer them in accordance with the rules of usufruct. (Article 55.)

With respect to the authority of a military occupant in time of war, Oppenheim says:

But, although as regards the safety of his army and the purpose of war the occupant is vested with an almost absolute power, he is not the sovereign of the territory, and therefore has no right to make changes in the laws or in the administration except those which are temporarily necessitated by his interest in the maintenance and safety of his army and the realisation of the purpose of war. On the contrary, he has the duty of administrating the country according to the existing laws and the existing rules of administration. (*International Law*, 2d edition, volume 2, page 211.)

The doctrine laid down by Oppenheim seems to find support in general in the cases of *New Orleans v. Steamship Company*, 20 Wallace, 387 (quoted with approval in *Dooley v. U. S.*, 182 U. S. 222-231), and in orders of President McKinley to the Secretary of War with relation to the first American occupation of Cuba, dated May 19 and July 18, 1898, and to be found respectively in Richardson's *Messages and Papers of the President* (edition of 1896-1899, volume 10, page 208), and in *Correspondence relating to the War with Spain*¹ (volume 1, page 159).

If, therefore, a military occupant in time of war is bound to respect the laws in force, so much more, it would seem, does such an obligation rest upon a military occupant when there is no state of war, and especially with regard to existing treaty obligations. In this connection, it is said by Westlake (*International Law*, 2d edition, part 2, page 29) with respect to armed intervention when "the party intervened against is in possession of the government," that "here also, therefore, there will not be a state of war with the usual abrogation or suspension of treaties as its effect."

Of course, it can not properly be contended that the military occupation of the Dominican Republic by forces of the United States has brought about a general abrogation of the treaties to which the Dominican Republic is a part. In this connection reference may be made to the situation existing in Madagascar in 1896 when the French Government took possession of the Island under a declaration of *prise de possession*, which was notified to the powers, who, however, did not draw the conclusion that thereby their treaties with Madagascar were abrogated. (*Foreign Relations*, 1896, pages 130 *et seq.*)

¹ *Correspondence relating to the War with Spain and Conditions Growing Out of the Same, including the Insurrection in the Philippine Islands and the China Relief Expedition, between the Adjutant-General of the Army and Military Commanders in the United States, Cuba, Porto Rico, China, and the Philippine Islands, from April 15, 1898, to July 30, 1902* (Washington, Government Printing Office, 1902).

In view of all the foregoing, it would seem that the Military Government in force in the Dominican Republic must be regarded as administering affairs for the Government of that Republic, and in any event, that the provisions of the treaty of 1907 between the United States and the Dominican Republic must be considered to be in present force and effect, so that if the Military Government desires to modify the tariff duties of the Republic, it should proceed as provided for in Article 3 of that treaty.

J. R. B[AKER]

Memorandum of the Solicitor for the Department of State (Woolsey) to the Chief of the Division of Latin American Affairs (Stabler)

WASHINGTON, July 10, 1918.

DEAR MR. STABLER: As to whether it is necessary for Admiral Knapp to conform to Article 3 of the treaty with Santo Domingo of 1907, I have, after consideration, to say that it appears that he must either so conform or be regarded as entirely supplanting by military occupation the Government of Santo Domingo and suspending the sovereignty of the Republic. Neither of these, however, as appears from the proclamation and orders of Admiral Knapp, seems to be the intention of the Military Government in Santo Domingo. In the administration of the Government of Santo Domingo, Admiral Knapp is acting for and on behalf of that Government—in a sense as a trustee. He is not the *de jure* executive, but the occupier and possessor (on behalf of the United States) exercising the usufruct and accountable to the Republic in due course. Thus, under Article 3, he may act on behalf of the Dominican Government, which is in his charge, and in that capacity enter into an agreement with the President modifying the imports duties of the Republic in accordance with the stipulations of that article.

L. H. W[oolsey]

File No. 639.003/48

The Military Governor of Santo Domingo (Knapp) to the Secretary of the Navy (Daniels) for the Secretary of State

No. 1580-18 K-F1

SANTO DOMINGO, November 6, 1918.

1. About the time of my leaving the Dominican Republic for Washington in the early part of July, considerable discussion had taken place concerning the advisability of gathering together in one law, which should be called the law of internal revenue, the different laws bearing on that subject. The matter was not ready for my action when I left, but Executive Order No. 197, establishing such a law, was issued in my absence by the Acting Military Governor on the 19th of August 1918.

2. During the examination of this matter I found, to my great surprise, that in the two laws called the *ley sobre estampillos* and the *ley sobre la renta de alcoholos* there were taxes laid on importations other than the taxes laid in the customs law of November 23, 1909, *ley sobre aranceles de importación y exportación*, which last was issued with the consent of the United States as is required by Article

3 of the convention between the United States and the Dominican Republic concluded February 8, 1907.

3. The laying of import taxes in any laws other than the customs law seemed to me so much open to suspicion, that I at once looked up the matter and found that it had been the subject of correspondence between the two governments; the ultimate issue having been that the United States consented to the taxes laid in these laws but adhered to the principle that no such tax could be laid in the future without reference to and approval by the United States Government, under the terms of the convention.

4. The correspondence referred to above also discussed the subject of municipal surtaxes that had been laid on imports, and with the same result; that, while the United States consented to such taxes as were then in existence, it still reserved the right to have submitted to it for approval any such proposed scheme of taxation. Many requests have come from municipalities to raise the revenue by surtaxes on imports and I have consistently declined to approve such proposals.

5. In preparing Executive Order No. 197, the terms of the law of stamps and the law of alcohol, in so far as they related to imports, were left out of the new law. I consider it contrary to every correct principle of taxation that an import tax should appear in an internal revenue law; and I now contemplate, if the Government of the United States approves, removing entirely from the internal revenues all taxes laid upon imports. In some instances I deem it wise to abolish the taxes altogether. In other instances, where the tax is not abolished, I purpose putting it as an amendment to the customs law, where, in my opinion, it properly belongs.

6. The change proposed will increase the customs revenues, which are those that come within the purview of the American-Dominican convention. On the other hand the change will decrease the revenues available for current use unless special provision is made to the contrary. The Dominican Government is in need of all its current revenue for the necessary expenses of administration, including the remedial measures that have been inaugurated by the Military Government, and that revenue should not be curtailed. The estimate of available revenue for 1919 is less than that which will have been available for 1918, and it is therefore very important that no source of revenue available for current use by the Dominican Government shall be decreased. For this reason I very earnestly request approval of the condition placed in the proposed Executive order (paragraph 4) amending the customs law to the effect that the total amount raised by the transfer from the law of stamps and the law of alcohol to the customs law shall remain available to the Dominican Government for its ordinary expenditures. On the basis of \$4,000,000 customs revenue per annum, there will be available for current revenue, after all deductions now required are made, \$1,600,000 per annum, so that the increase to the customs that the proposed change will bring about is not necessary to meet any stated obligations; it is, however, very necessary for current expenditures. Four millions is regarded as the minimum revenue ever to be anticipated in future with the present customs laws; with greater customs revenue there will be even less need for the proposed surtax as insurance to provide for stated obligations.

7. In the proposed amendment to the customs law, the items of importation placed therein, on which revenue is now collected under the internal revenue law, are of two general classes: first, articles which are manufactured in the Dominican Republic and which may reasonably be considered to be worthy to a certain measure of protection; second, articles that may generally be included in the class of luxuries, including alcohol and alcoholic drinks. The rates in the amendment to the customs law proposed are, generally speaking, lower than those now existing, but they are consolidated and made into one rate of a kind that can be readily collected, thus doing away with the intricacies and defects in administration that inhere in the present law. Appended, marked "C", is an analysis of the change in the law upon the total tax as now collected.

8. I append suggested drafts of executive orders marked "A" and "B" to cover the changes proposed in this letter, with the earnest recommendation that they receive the approval of the Government of the United States. I do this, not only because I believe that I have no authority to issue the one of these orders marked "B" without such approval under the terms of the convention, but also because I desire to establish a very solid precedent that no modification in any direction, whether by way of increasing or decreasing rates of taxation upon imports into the Dominican Republic, is permissible without the previous consent of the United States Government, so long as the American-Dominican convention of 1907 shall remain in existence.

9. I request as prompt action upon this letter as may be possible, in order that the change may be made effective on January 1 next. Commander Hagner, Pay Corps, United States Navy, of my staff, who is now in Washington, is familiar with this matter, and will be instructed to make in person any explanations that may be desired in addition to those herein contained, if this correspondence finds him still there.

H. S. KNAPP

[Enclosure 1]

DRAFT OF PROPOSED EXECUTIVE ORDER

A

By virtue of the powers vested in the Military Government by Santo Domingo, such parts of the *ley sobre la renta de alcoholes*, promulgated June 16, 1909, and of the *ley sobre estampillas*, promulgated July 2, 1910, and of amendments made to either of the aforesaid laws, as shall be in effect on December 31, 1918, are repealed to take effect January 1, 1919, when both laws and amendments thereto shall stand repealed in their entirety: *Provided*, that the alcohol tax, or the stamp tax, or both, to which any article is liable under the parts of the aforesaid laws or their amendments in effect on December 31, 1918, shall, if any such article be brought into the Dominican Republic by a vessel making legal entry at any customhouse, or if such article be duly declared at any customhouse, before 5 o'clock, p. m., on December 31, 1918, be levied, assessed, and collected in accordance with the parts of the aforesaid laws or amendments effective at the time of entry or declaration.

[Enclosure 2]

DRAFT OF PROPOSED EXECUTIVE ORDER

B

By virtue of the powers vested in the Military Government of Santo Domingo, and with the consent of the Government of the United States of America as required by Article 3 of the American-Dominican convention of February 8,

1907, the *ley sobre aranceles de importación y exportación*, promulgated November 23, 1909, is hereby amended, in part, as follows:

1. Paragraph 4 of Section 8 shall read: Lottery tickets or parts thereof, or any substitutes therefor, and printed matter relating to lottery drawings other than that contained as advertising matter in newspapers or periodicals not especially published in connection with lotteries; roulette wheels, gambling layouts, dealing boxes and all other machines, apparatus, or mechanical devices used in gambling or used in the distribution of money, cigars, or articles, when such distribution is dependent upon lot or chance.

2. In lieu of and superseding the internal revenue taxes heretofore separately assessed and collected under the *ley sobre estampillas* and the *ley sobre la renta de alcoholes* upon certain articles imported into the Dominican Republic, there shall be assessed and collected an additional import duty in the form of a percentage surtax as herein provided upon the rates specified for all articles dutiable under the following enumerated paragraphs of the aforesaid *ley de aranceles de importación y exportación*, which paragraphs are accordingly amended:

Paragraph	51	Surtax	30%
"	364	"	40%
"	365	"	30%
"	368	"	50%
"	369	"	30%
"	371 to 376 inclusive	"	30%
"	378 to 381 inclusive	"	30%
"	402	"	40%
"	406	"	30%
"	683	"	50%
"	1027	"	100%
"	1028 to 1043 inclusive	"	40%
"	1112	"	100%

NOTE: The surtax shall not apply on paragraph 1112a.

3. The surtaxes at the rates above specified shall be calculated taking as a basis the total customs import duty assessed in each case inclusive of all other surtaxes, compound duties, or provisional *ad valorem* rates of duty to which the articles are subject under the *ley sobre aranceles de importación y exportación*.

4. The additional duties accruing from the application of the above-mentioned surtaxes shall be assessed and collected at the respective customhouses at the time and in the same manner as the regular import duties, but they shall be accounted for separately and the total amount thereof shall be delivered by the General Receiver of Dominican Customs to the Contaduría General de Hacienda for the Dominican Government accompanied by detailed statements of the accounts.

5. This order shall take effect on January 1, 1919, and all laws, resolutions, or decrees, or any parts of such laws, resolutions, or decrees, contrary to the terms of this order are hereby revoked effective on the same date, January 1, 1919: *Provided*, however, that the duty and taxes on any article brought into the Dominican Republic by a vessel which arrives and makes legal entry at any customhouse of the Dominican Republic, or which article has been duly declared at any customhouse, before 5 o'clock, p. m., December 31, 1918, shall be assessed and collected at the rates provided by the laws in effect on the aforesaid date, December 31, 1918.

File No. 639.003/49.

Memorandum of the Solicitor for the Department of State (Woolsey) regarding presidential approval of the Executive orders proposed by the Military Government of Santo Domingo for revision of the import duties of Santo Domingo

WASHINGTON, November 29, 1918.

I. FACTS

On November 23, 1909, the *ley sobre aranceles de importación y exportación*, which purports to be a complete piece of legislation

including all export and import duties, was adopted with the approval of the United States as required by Article 3 of the convention of 1907. It appears, however, that there exist at the present time in the internal revenue laws of the Dominican Republic two laws which are properly import-duty legislation. They are the *ley sobre estampillos* or stamp tax, and the *ley sobre la renta de alcoholes*. There appear also to be municipal surtaxes laid on imports which are not included in the general customs revenue laws of the Dominican Republic. The fact that the internal revenue laws of the country thus included taxes on imports, and the additional fact that these laws were not approved by the United States as required by Article 3 of the convention of 1907 was brought to the attention of this Government.¹ The lack of approval of the United States Government was made the subject of an instruction to the American Minister at Santo Domingo dated March 1, 1911.² It now appears from a letter of Admiral Knapp, Military Governor of Santo Domingo, to the Secretary of the Navy, for the State Department, dated November 6, 1918, that the United States subsequently consented to such taxes as were then in existence but reserved the right to have submitted to it for approval any such proposed scheme of taxation in the future. The Military Governor also reports that he has refused municipalities permission to raise revenue by surtaxes subsequent to the discovery of the existing surtaxes. In the new law of internal revenue, Executive Order No. 197, issued by the Acting Military Governor of Santo Domingo on August 19, 1918, the law of stamps and the law of alcohol, so far as they related to imports, were omitted from the scheme of internal revenue taxation.

The Military Governor now proposes in his letter of November 6, 1918, to the Secretary of the Navy, above referred to, to repeal the law of stamps dated July 2, 1910, and the law of alcohol promulgated June 16, 1909, to take effect January 1, 1919. This is indicated in draft of proposed Executive order "A" attached to Admiral Knapp's letter. In his draft of proposed Executive decree "B", he purposed to incorporate the features of the law of stamps and the law of alcohol, so far as they deal with import duties, in the law of import and export duties of November 23, 1909, reducing the amount of the tax somewhat. This order is to take effect January 1, 1919. Article 4 of this proposed decree provides:

The additional duties accruing from the application of the above-mentioned surtaxes shall be assessed and collected at the respective customhouses at the time and in the same manner as the regular import duties, but they shall be accounted for separately and the total amount thereof shall be delivered by the General Receiver of Dominican Customs to the Contaduría General de Hacienda for the Dominican Government accompanied by detailed statements of the accounts.

Admiral Knapp states that the approval of this Article 4 of the proposed decree is very much desired by the Military Government, inasmuch as by this method the revenue, which is at present raised by the law of stamps and the law of alcohol, and goes toward payment of the current expenses of the Dominican Government, will be retained for that purpose, for which it is very much needed. In this connection it is pertinent to observe that the convention of

¹ *Foreign Relations*, 1911, pp. 142, 149.

² *Ibid.*, p. 141.

1907 deals with the customs revenues only, and that the Dominican Government is not in any way responsible to the United States for the collection and disbursement of the internal revenue receipts.

Article 3 of the convention of 1907 provides:

3. Until the Dominican Republic has paid the whole amount of the bonds of the debt its public debt shall not be increased except by previous agreement between the Dominican Government and the United States. A like agreement shall be necessary to modify the import duties, it being an indispensable condition for the modification of such duties that the Dominican Executive demonstrate and that the President of the United States recognize that, on the basis of exportations and importations to the like amount and the like character during the two years preceding that in which it is desired to make such modifications, the total net customs receipts would at such altered rates of duties have been for each of such two years in excess of the sum of \$2,000,000 United States gold.

It should also be noted in this connection that Article 1 of the convention, after providing for appointment of a General Receiver of the customs revenues and providing for the application of the customs revenues collected to payment of the expenses of the receivership, payment of interest on bonds, amortization payments of bonds, purchase and cancellation of bonds, and for the payment of the remainder thereafter to the Dominican Government, provides as follows:

Provided, that in case the customs revenues collected by the General Receiver shall in any year exceed the sum of \$3,000,000, one half of the surplus above such sum of \$3,000,000 shall be applied to the sinking fund for the redemption of bonds.

II. QUESTION

Should the decrees proposed by the Military Government of the Dominican Republic be approved by agreement of the United States?

III. DISCUSSION

As to proposed Executive order "A", there can be no objection, for the enactment of import duties under the guise of internal revenue was improper in the first place. However, inasmuch as they were really import-duty laws in the first instance, a modification of them or their repeal would now require the assent of this Government under Article 3 of the convention as a modification of import duties.

As to proposed Executive order "B", inasmuch as the rates are somewhat lowered by Admiral Knapp's new scheme, and inasmuch as the taxes are being transferred from the internal revenue scheme to the customs-revenues law, the proposed decree must be considered to be a modification of import duties which will require the assent of this Government on the conditions set forth under Article 3 of the convention. That the rates are somewhat lowered is stated by Admiral Knapp on page 2 of his letter of November 6, 1918, in paragraph 7.

It will be observed that Article 3 provides that, in case of agreement by this Government to a modification of the import duties, the Dominican Executive must demonstrate and the President of the United States must recognize that the total net customs receipts will, under the altered rates of duties, amount to more than \$2,000,000 United States gold under the circumstances which have obtained for the past two years. While specific figures are not given on this point, it appears from paragraph 6 of Admiral Knapp's letter that the proposed change will increase the customs revenues, and that

\$4,000,000 is regarded as the minimum ever to be anticipated in the future with the present customs laws. It may be assumed from this that the \$2,000,000 requirement is easily met with.

Such being the case, there can be no objection to the inclusion of the law of stamps and the law of alcohol, so far as they affect imports, in the general customs revenues laws of the Dominican Republic, for all import duties properly belong in the latter law. However, there would appear to be some question as to the proposal in paragraph 4 of decree "B", upon which the Military Governor puts so much emphasis. Apparently, the proceeds of the law of stamps and the law of alcohol are at present disposed of as if they were internal revenue, and hence are paid directly to the Dominican Government for current expenses. The purpose of the Military Government is apparently to keep these revenues, even when incorporated in the customs law, available for the current expenses of the Dominican Government. However, this would appear to run *contra* to the express stipulations of the convention of 1907. Article 1 of the convention as quoted above provides that in case the customs revenues exceed \$3,000,000, one-half of the surplus above the \$3,000,000 shall be applied to the sinking fund for the redemption of bonds. The customs revenues at the present time apparently amount to \$4,000,000 or more, leaving \$1,000,000, of which one-half automatically by the convention goes to the sinking fund for the redemption of bonds and the other half is apparently paid over to the Dominican Government for current expenses, inasmuch as the fixed charges under the convention seem to be less than \$1,600,000. (See paragraph 6 of the Military Governor's letter of November 6, 1918.) If the amount which will be produced by the law of stamps and the law of alcohol dealing with imports, is added to this surplus, it is apparent that the Dominican Government, instead of getting the full amount of the proceeds of these taxes for its current expenses, as it does at present, will, if the provisions of Article 1 of the convention of 1907 are strictly complied with, only get one half of the proceeds for current expenses, the other half going to the sinking fund. It is evidently this result of Article 1 of the convention of 1907 which the Military Government of the Dominican Republic wishes to obviate, although nothing expressly is stated as to this provision of the convention.

IV. CONCLUSION

Therefore, it appears that paragraph 4 of proposed Executive order "B" is possibly in contravention of the proviso at the end of Article 1 of the convention of 1907, although it is difficult to arrive at any definite conclusion without having the exact figures as to the present customs revenues and the increase brought by the proposed change. If it is found that the proposed decree conflicts with Article 1 of the convention, the mere fact that the proceeds of these duties have been paid to the Military Government for its current expenses, apparently with the approval of the United States, should not properly affect the withholding of assent to the proposed change.

V. RECOMMENDATION

It is recommended that exact figures as to the yield of the present customs revenues and of the increase by reason of the proposed change be obtained from Commander Hagner, Pay Corps of the United States Navy, who is stated by Admiral Knapp to be now in Washington (see paragraph 9 of his letter), and that, if practicable, some method be arrived at of making the proposed change, but at the same time observing the proviso in Article 1 of the convention of 1907. The agreement of this Government under Article 3 is also required when made upon the demonstration therein mentioned.

L. H. W[oolsey]

NOTE: That the Military Government is bound by the convention of 1907 appears from a memorandum of this office of February 28, 1918.

File No. 639.003/48

The Acting Secretary of State to the Secretary of the Navy (Daniels)

WASHINGTON, January 11, 1919.

SIR: I have received your letter of November 23.¹ forwarding a letter from the Military Governor of Santo Domingo relative to a change in the revenue laws of Santo Domingo. Pursuant to the request of the Military Governor, consideration of the matter involved was expedited, but I regret to say that owing to a clerical error this reply has been greatly delayed.

This Department is unable to give its opinion regarding the propriety of the proposed change in the revenue laws without additional information from the Military Governor of Santo Domingo on the following points:

1. The exact figures concerning the present yield of the customs revenues of the Dominican Republic and the increase in yield by reason of the proposed change.
2. Demonstration by the Dominican Executive in accordance with Article 3 of the convention of 1907 between the United States and Santo Domingo that the total net customs receipts, "on the basis of exportations and importations to the like amount and the like character during the two years preceding," would at the proposed new rates of duties "have been for each of such years in excess of the sum of \$2,000,000 United States gold."
3. Whether it is the intention of the Military Governor to pay under paragraph 4 of the proposed Executive order all the revenue obtained from the reclassified taxes to the Dominican Government directly for current expenses, without reference to the provisions of Article 1 of the treaty of 1907, specifying the purposes for which customs revenue may be applied.

¹ Not printed; see the Military Governor's letter of November 6, 1918, *ante*, p. 389.

It should be observed in this connection that it would not appear possible for the Dominican Government, under Article 1 of the treaty of 1907 to change the classification of a tax from internal revenue to customs revenue, and to apply it in the same manner as internal revenue is now applied. The application of customs revenue is governed by the provisions of Article 1 of the treaty of 1907. In addition it would appear from the proviso in said Article 1 that in case the total customs revenue exceeds \$3,000,000 in any year, half the surplus above \$3,000,000 must be applied to the sinking fund for the redemption of bonds. This Government can not give its approval to any change in the customs laws which will not make provision for observance of this stipulation as to the sinking fund.

In connection with this question of application of customs revenue, reference is made to paragraph 6 of the letter of November 6 from the Military Governor of Santo Domingo.

I have [etc.]

FRANK L. POLK

PROTECTION OF CHINESE INTERESTS IN THE DOMINICAN REPUBLIC AND HAITI BY AMERICAN DIPLOMATIC AND CONSULAR OFFICERS—AUTHORITY TO ISSUE PASSPORTS TO CHINESE CITIZENS

File No. 704.9339

The Minister in the Dominican Republic (Russell) to the Secretary of State

[Telegram]

SANTO DOMINGO, May 2, 1918, 4 p. m.

Chinamen here have no one to represent them. Am I authorized to use good offices for Chinamen to the extent of issuing emergency passports in deserving cases for voyages to Cuba, for instance, where such immigration is not prohibited?

RUSSELL

File No. 704.9339/1

The Chinese Minister (Koo) to the Secretary of State

No. 63

WASHINGTON, May 24, 1918.

SIR: Referring to previous informal inquiries by this Legation regarding protection of Chinese interests in Haiti and in the Dominican Republic, I have the honor to inform you that it is exceedingly gratifying to my Government to be able to rely upon the traditional friendship of the United States in meeting the present situation. In most of the countries in Central America and South America where China has no diplomatic and consular representatives, Chinese citizens have enjoyed for some years the good offices extended to them by American diplomatic and consular representatives under special instructions from your Department.

Since the outbreak of the present war, Chinese residents in Haiti and in the Dominican Republic have sent urgent appeals to this Legation for protection and for the appointment of some official representatives authorized to issue passports to Chinese citizens who

desire to leave those countries. To confirm the informal understanding which has been reached between your Department and the Legation, I have now the honor to request, under instructions from my Government, that you will be so kind as to secure the consent of the Governments of Haiti and the Dominican Republic for American diplomatic and consular representatives in those countries to take charge of Chinese interests and issue passports to Chinese citizens, and at the same time to send instructions to those officials to act for China accordingly.

I take this opportunity to assure you that the friendly action of the American Government in permitting its diplomatic and consular representatives to use their good offices in behalf of Chinese citizens abroad is gratefully appreciated by my Government.

Accept [etc.]

VI KYUIN WELLINGTON KOO

File No. 704.9339/2

The Minister in the Dominican Republic (Russell) to the Secretary of State

[Telegram]

SANTO DOMINGO, May 30, 1918, 8 a. m.

Referring to my cable of May 2, 4 p. m., in regard to Chinese, please answer, as there are many Chinamen here who want to go to China by way of New York and the steamers will not accept them without passports.

RUSSELL

The Acting Secretary of State to the Minister in the Dominican Republic (Russell)¹

[Telegram]

WASHINGTON, June 4, 1918, 6 p. m.

Your May 30, 8 a. m. Chinese Government has instructed its Legation here to request that the consent of the Dominican Government be obtained in order that American diplomatic and consular representatives may take charge of Chinese interests and issue passports to Chinese citizens [proceeding to countries other than the United States].²

You may request desired permission and act thereunder when granted.

PHILLIPS

File No. 704.9339/3

The Chinese Minister (Koo) to the Secretary of State

No. 66

WASHINGTON, June 15, 1918.

SIR: I have the honor to acknowledge the receipt of your note of the 12th instant, relating to the protection of Chinese interests

¹ The same, *mutatis mutandis*, on the same date, to the Minister in Haiti.

² Words in brackets added by telegram of June 13.

in Haiti and in the Dominican Republic, in which you are good enough to inform me that the American Ministers at Santo Domingo and at Port au Prince respectively have been instructed by cable in accordance with the request of my Government and have been authorized to issue passports to Chinese citizens for countries other than the United States.¹

One of the purposes for which Chinese citizens in Haiti and in the Dominican Republic will apply for passports is to enable them to leave the country and return to China, and the usual route for them to go to China is through the United States. I understand these instructions, therefore, to mean that the privilege of transit through the United States to China, which Chinese citizens from Haiti and the Dominican Republic have hitherto enjoyed, is not affected by these instructions, but that passports issued by the American ministers and consuls in those countries can not be used in lieu of Section 6 certificates for coming to and remaining in the United States.

I shall be obliged if you will be so kind as to inform me if this understanding is correct, and, should it be correct, to consider the advisability of issuing supplementary instructions to the American Ministers at Santo Domingo and at Port au Prince with a view to the preclusion of any possible doubt on the point.

Accept [etc.]

VI KYUIN WELLINGTON KOO

File No. 704.9339/5

The Minister in the Dominican Republic (Russell) to the Secretary of State

No. 354

SANTO DOMINGO, June 19, 1918.

SIR: Referring to my telegram of May 30, 8 a. m., and to the Department's reply thereto of June 4, 6 p. m., I have the honor to report that I requested and obtained from the Military Government permission for the diplomatic and consular representatives of the United States in this Republic to take charge of Chinese interests and issue passports to Chinese citizens.

I have [etc.]

WILLIAM W. RUSSELL

File No. 704.9339/4

The Minister in Haiti (Blanchard) to the Secretary of State

[Telegram]

PORT AU PRINCE, June 25, 1918, 3 p. m.

Department's June 4, 6 p. m., and June 13, 4 p. m.² Desired permission granted. I am instructing consuls.

BLANCHARD

¹ Not printed.

² See note 1 on the preceding page.

File No. 704.9339/6

The Secretary of State to the Chinese Minister (Koo)

No. 80

WASHINGTON, August 14, 1918.

SIR: Referring to your note of June 15, 1918, respecting the transit through the United States of Chinese citizens from Haiti and the Dominican Republic who are *en route* to China, I have the honor to inform you that the Department is in receipt of a communication from the Secretary of Labor stating that his Department has made no changes in the regulations respecting the transit of Chinese citizens, regardless of their point of entry and departure, or the place of their last residence and destination.

Accept [etc.]

For the Secretary of State:

WILLIAM PHILLIPS

ECUADOR

CLAIMS OF THE GUAYAQUIL & QUITO RAILWAY CO. AGAINST ECUADOR¹

Resumption of Payment of Interest on Bonds

File No. 422.11G93/944

The Minister in Ecuador (Hartman) to the Secretary of State

No. 263

QUITO, January 2, 1918.

SIR: Referring to the Department's telegram of November 26, 1917, 5 p. m.,² relating to the failure of the Ecuadoran Government to make deposits for railway bonds, I have the honor to inform the Department that, on November 30, I prepared and delivered in person a note to the Minister for Foreign Affairs, wherein I set out textually that portion of the Department's telegram directed to be so delivered, and at the same time, in further compliance with such telegraphic instructions, I orally emphasized the gravity with which the Government of the United States views the situation into which Ecuador has allowed the disregard of her obligations to bring the relations of the two Governments. I further informed the Minister that the Government of the United States can not allow the annihilation and destruction of this legitimate and important American enterprise.

To this, the Minister replied that he would bring the matter to the attention of the Minister of the Interior, and that an answer would be forthcoming within two weeks. Thus far, no answer has been received.

In view of the recent action of the Government of Ecuador in severing relations with Germany, and the conditions growing out of the Mueller incident, and the internment of the escaped German officers, I have thought it advisable not to press the Ecuadoran Government for speedy answer, until so instructed by the Department.

I have [etc.]

CHAS. A. HARTMAN

File No. 422.11G93/945

The Minister in Ecuador (Hartman) to the Secretary of State

No. 274

QUITO, January 22, 1918.

SIR: I have the honor to enclose herewith triplicate copies, together with translation, of note No. 1, of January 11, 1918, from the Minister for Foreign Affairs, in reply to my note No. 254, dated November 30, 1917, wherein I transmitted textually to the Government of Ecuador, as directed, a certain portion of Department's

¹ Continued from *Foreign Relations*, 1917, pp. 730-47.

² *Op. cit.*, p. 746.

telegram of November 26, 1927, 5 p. m., relating to the failure of Ecuador to comply with its obligations growing out of its contractual relations with the Guayaquil & Quito Railway Co.

In the last paragraph, on page 2 of enclosure No. 2, the Department will observe that the Minister for Foreign Affairs does not make complete answer to Department's said telegram, but says that he has "transmitted to the Ministries of Public Works and the Treasury the pertinent parts of Your Excellency's communication for their reply."

I have no opinion as to when they will reply, but, judging from previous experience, it will probably be in the distant future.

I have not answered this note, deeming it proper to be submitted to the Department for further instructions, which I respectfully await.

I have [etc.]

CHAS. S. HARTMAN

[Enclosure—Translation]

The Ecuadorian Minister of Foreign Affairs (Tobar y Borgoño) to the Minister in Ecuador (Hartman)

QUITO, January 11, 1918.

MR. MINISTER: I beg to refer to Your Excellency's note, No. 254, dated November 30, in which, by order of the American Government, you are pleased to quote me a telegram received by you from the Department of State, relative to the refutation of statements made by me in my note of February 28, of last year, addressed to the Legation worthily directed by your excellency.

Whereas, reads the telegram referred to, the original contract of 1897 between the Government of Ecuador and the Guayaquil & Quito Railway Co. provides that the difficulties that might arise between the two parties should be a matter of diplomatic concern, of sufficient importance to be settled by arbitrators appointed by the Presidents of Ecuador and the United States; and, whereas the arbitration contract of 1908 rendered valid that agreement by giving it the legal status of an award, which has been repeatedly transgressed by Ecuador, the Government of which seems to have the intention of violating it afresh; whereas the daily allotments to be set aside from the customs' receipts, in accordance with the agreement of 1908, have been neglected; and, finally, taking into consideration the failure of the two attempts at arbitration in 1913 and 1914, it must be admitted that there has resulted a case of denial of justice. The Government of the United States, the telegram goes on to say, sees nothing in the said note of February 28 to give reason for any change whatever in its attitude; for years it has pointed out repeatedly in an explicit manner to the Ecuadoran Government its intention to exercise its rights by the interposition of diplomatic influence to protect the American interests of the Guayaquil & Quito Railway Co. The telegram ends by admonishing the Government of Ecuador to collect the deposits in accordance with the arbitration contract, and demanding that it shall name an early date for said collection.

The communication to which I hereby reply may thus be reduced to two points: the one being an exposition of the American Government's opinion to the effect that the affairs of the Guayaquil & Quito Railway Co. show cause for diplomatic intervention, since such action was authorized from the beginning by assigning to the Presidents of Ecuador and the United States their part in the arbitration tribunal, and because there has been a denial of justice; the other part relates to the interpretation and fulfilment of the contracts of the Ecuadoran Government with the said company.

Your excellency will pardon me for not replying to the second part; for, as I have had occasion to state at other times, it is not within the province of the Department under my charge to reply thereto. I have transmitted to the Ministries of Public Works and the Treasury the pertinent parts of your excellency's communication, for their reply.

With respect to the first point, namely, the question of legalizing diplomatic intervention, I regret not to be able to agree with the communication to which I reply.

Your excellency, quoting the telegram from the Department of State, says that the original contract of 1897 provides that the differences that should arise between Ecuador and the company must have been of sufficient importance in the opinion of the contracting parties to be settled by arbitrators appointed by the Presidents of Ecuador and the United States, and that, hence, it is shown that in said contract diplomatic intervention was admitted. Clause 27 of the said original contract does, indeed, provide that the controversies or disagreements that might arise between the two contracting parties should be settled by the President of Ecuador and the President of the United States, or by the arbitrators they themselves might appoint; and that clause has been allowed to stand in the subsequent reformatory contracts; but, is it possible to deduce from that fact the legality of diplomatic intervention? No, by no means. The arbitrators are the persons of the Presidents; that is to say that at the present moment they are Doctor Baquerizo and Mr. Wilson, just as they were Mr. Taft and Mr. Plaza, and as previously they might have been Mr. Alfaro and Mr. Roosevelt. If, in the contract, Presidents are spoken of, it is because the persons who were to fill those offices could not have been designated by name, since it was not known who they might be at the time when the parties might have to appeal to them. If the Presidents were designated as arbitrators, or to appoint the arbitrators, it was not because of any intention of bringing about the intervention of diplomatic machinery; but thereby was sought only wisdom and justice, by the selection of judges who, on account of their high political position, would be a guaranty of that wisdom and justice, both in respect of the award and of the selection of the persons who were finally to render it. Had there been any other thought in mind, it is very certain it would have been stated that it should belong to the two Governments to make the appointment. Hence I think there could be no room, in any way, for accepting diplomatic intervention on the part of the American Government founded on the fact that the two Presidents, or those who may be appointed by them, are the arbitrators.

I can not comprehend on what the affirmation can be founded that the contracting parties in 1897 wished to put in movement the machinery of diplomacy by the wording of that clause. The arbitrator appointed by one of the Presidents should act in a diplomatic character if he represented his country in the exercise of his functions as arbitrator, or if at least he represented the supreme authority; but the arbitrators, in the present case, represent neither Ecuador nor the United States, nor the persons of the heads of the two Republics, whose only attribution is that of making the appointments. The arbitrators, in this case, as in every other, are nothing more than judges who are to exercise the functions of such, whether in accordance with law or equity—judges, who, once appointed, do not represent those who appointed them; nor are they to pronounce sentence in representation thereof. Therefore, the participation of the Presidents is no more than a procedure to bring about the designation of the judges, who, once designated, cause the participation of those who elected them to cease. Moreover, supposing the Presidents should have chosen to settle the disagreements themselves, they would do so, not as Presidents, but as judges, there being simply the concurrence of the two offices in their persons: that of the head of State in their own country, and that of arbitrator in this suit.

And that this has been the stand constantly maintained by the Ecuadorian Government, I have no need of reminding your excellency. Dr. José Peralta, Minister of Foreign Relations at the time, stated to the American Legation on June 1, 1911, that, as Article 23 of the Constitution sets forth clearly that all contracts entered into by foreigners with Ecuador carry with them the implicit condition of the waiving of all diplomatic claim, and as, furthermore, our Civil Code declares to be incorporated in the contracts the laws in force at the time of their celebration, it is understood in the transaction contract of September 30, 1908, as also in all the previous contracts the Government has entered into with the Guayaquil & Quito Railway Co., that this latter contracting party has waived the presentation of claims it may try to enforce against the Ecuadorian Government through diplomatic channels.

This same opinion has been set forth in the most explicit manner by the Ecuadorian Government which in 1913 rejected a proposed protocol relating to arbitration between the Government of Ecuador and the company, precisely because that project implied the transfer of the controversy to international and diplomatic ground, which was in opposition to that which Ecuador had been careful to determine from the start, namely, the distinction between the person of the President of the United States and the American Government, between the person of the President of Ecuador, and the Ecuadorian Government,

It has maintained the same doctrine every time the arbitrators appointed by American Presidents have attempted to assume a diplomatic character, to show which it will suffice me to quote the note from this Ministry, No. 269, of April 1, 1913, addressed to your Legation, in which that point is clearly expounded.

In the telegram quoted, it is said there is occasion for diplomatic intervention since there has resulted an instance of a denial of justice. I regret, also with respect to this, to have to disagree with that despatch. Is there really a denial of justice in the case in point? The reply must necessarily be in the negative.

There is denial of justice when a judge, a tribunal, an administrative authority, under any pretext, refuses to pass judgment on the matters which have been submitted thereto in regular form, and which await that judgment. That is a denial of justice, a censurable and punishable act, since, if well-organized nations prohibit their citizens from taking justice into their own hands, it is logical, natural, and necessary that the magistrates and authorities should decide all causes submitted to them.

Then, as a denial of justice is so grave an act in itself and in its consequences, to prove it, it is necessary that there should expressly appear the wilful refusal of the judge or authority to decide the matter, violating the law which imposes on him the obligation to do so, or when it appears in an equally indisputable manner that the matter, having been submitted to the judge or authority, either one maliciously or intentionally neglects the fulfilment of his duty; and so serious is a denial of justice considered, that it is generally held in international law to justify diplomatic intervention if it damages the interests of foreign subjects; but in this case, less than in any other, is there any room for speaking of an exception to the general rule requiring proof that the denial of justice has actually occurred. Now, it is not possible to found a complaint of a denial of justice, as is attempted in the telegram from the Department of State to which I refer, on the failure of the several arbitration tribunals to settle the differences that have arisen between Ecuador and the railway company: those failures are entirely due to causes which, if they may be imputed to any party, can not be attributed to the Ecuadoran Government.

I will remind your excellency that this Government was the first to demand an arbitral decision since difficulties arose with the railway company. The tribunal of 1907 and 1908 failed because, in the long period of its sittings, no other pertinent documents were presented than those setting forth the respective claims, one of which was formulated by a person who could not produce any document whatever in support of his legal representation, so that the tribunal could not take action with respect to the claims on account of an omission exclusively on the part of the railway company. This gave rise to the transaction contract of 1908, which contract makes evident the eternal good will of the Ecuadoran Government which resigned itself to the acceptance of that transaction settlement, since the railway company impeded an arbitral award. It can not therefore be said that the Ecuadoran Government was in any sense to blame for the failure of the first arbitration tribunal, and hence it can not well be established that there has been any denial of justice imputable to the said Government; on the other hand, your excellency will agree with me that the railway company, by not providing the representative who acted as its attorney with legal title therefor, did everything possible to prevent the hoped-for award being rendered.

On June 1, 1911, the Ecuadoran Government expressed its wish that the arbitration tribunal should decide the fresh difficulties that had arisen. A party that not only does not refuse to appear before the judge, as provided, but that demands the operation of the tribunal, is not guilty of bad faith, nor of creating difficulties for the rendering of an award, requested by said party itself. It must be observed that, if the railway company did indeed present itself for arbitration, it caused the latter to fail by its omission to provide with legal powers those who have appeared as its attorneys: Mr. John Lane, who assumed that representation in the steps preliminary to the organization of the tribunal, was obliged to admit before the judge of the Province of Pichincha (*Juzgado de Letrado de Pichincha*) that he held no power of attorney; the judge set a time in which he should prove his attorneyship, which time more than elapsed without Mr. Lane ever appearing to present any document whatever. Here, then, is the cause of the failure of the second tribunal, which is entirely im-

putable to the company that, nevertheless, has no scruple in posing as the victim, seeking the powerful aid of the American Government.

Dr. Alfredo Baquerizo Moreno, having been appointed arbitrator by General Plaza, President of Ecuador, and Dr. Henry L. Janes by the President of the United States, since the tribunal could not be of a diplomatic character, as is evident and indisputable, the arbitrators logically should have taken the oath of office before the proper authority. This was the stumblingblock; and it must be observed that, in this case also, the obstacles and the opposition, if presented by anyone, were certainly not presented by the Ecuadorian arbitrator: the resistance came from the other party; and there should, furthermore, be noted the fact that the representative and the attorney of the Guayaquil & Quito Railway Co. had from the beginning placed difficulties in the way of the oath of office being taken before the supreme tribunal. In view of this, how is it possible to found thereupon a case of denial of justice, which can in no way be proved? The course which should have been followed was so much the clearer since, in the year 1907, the arbitrators, Messrs. Borja and Fox, had appeared before the judge (*Juez de Letras*) to take the oath.

This second tribunal having miscarried as the result of the causes above-stated, the Government of Ecuador insisted on the formation of a new tribunal; and, Judge A. L. Miller having been appointed by President Wilson, it was requested that said gentleman should come as soon as possible to Ecuador, as in fact he did.

The tribunal became constituted by the formalities of the oath-taking before the Ecuadorian judge. It was therefore to be expected that the arbitrators would forthwith proceed with the discharge of their duties. As a preliminary, and in view of the lessons taught by past experience, the fiscal attorney requested that the company's representative should produce his legal titles as such. Mr. Miller raised questions of form relating to the acceptance of the Ecuadoran lawyer's petition, as also with regard to accepting the latter's allegation. Under these circumstances it was very difficult to arrive at an agreement in the tribunal. Mr. Miller then left Quito without even making known the motive for his departure. I shall not refer to the other exacting demands of Mr. Miller, such as that two records of the proceedings should be kept simultaneously, also that the English language should be employed at the same time as the Spanish, and that two secretaries should be appointed, etc. The Ecuadorian arbitrator remained in Quito, and his good will to judge the cause is manifest.

Notwithstanding these antecedents, which are in accordance with the facts, to the Ecuadorian Government, and to Ecuador in general, is now attributed the responsibility for the failure of the several tribunals, as a reason for accusing it of a denial of justice, which, even though it existed, was not imputable thereto, being rather due to the attitude assumed by the other party. If there has been any denial of justice, the responsibility therefor is entirely attributable to the company, and possibly to one of the arbitrators appointed by the American President.

Your excellency, Mr. Minister, is acquainted, in all its details, with the sad history of these facts; there is therefore no occasion for me to insist with respect thereto; and as you are so acquainted therewith, you must agree with me that it is not possible to attribute to Ecuador any responsibility, great or small, for the lack of an arbitral award to settle the difficulties that exist or have existed in respect of the contract between the Guayaquil & Quito Railway Co. and Ecuador.

The matter is clear, exceedingly clear, and to such an extreme that I am convinced the Secretary of State, with his well-known spirit of strict justice must agree with me that the railway company has no reason for hoping to count upon the diplomatic support of the Government of the Union in the matter of its differences with Ecuador.

In view of the foregoing, I am obliged, much to my regret, to state to your excellency, that my Government, upheld as it is by justice, is bound not to accept, in any form, diplomatic intervention, since that has not been recognized previously, as it has been desired to show; neither is it possible to speak of a denial of justice as imputable to the Ecuadorian Government or authorities.

Believe me, Mr. Minister, that in expressing so categorical a negative I am forced thereto in obedience to strict duty, which obliges me to defend truth, justice, and the national interests which are upheld by truth and justice.

I avail [etc.]

TOBAR Y BORGONO

File No. 422.11G93/947

The Minister in Ecuador (Hartman) to the Secretary of State

[Telegram]

QUITO, March 14, 1918, 4 p. m.

My notes to the Minister for Foreign Affairs relating to Gil-Ochsner contract, resumption of deposits by Ecuador for railway bonds, transmitting textually Department's November 26, 1917, 5 p. m.¹ and suit against Santos on his guarantee all published in official bulletin Foreign Office without my consent.

On March 12 my note No. 254, November 30, 1917, relating to resumption of deposits for railway bonds was published in *El Comercio*.

I immediately addressed a note to the Minister for Foreign Affairs protesting against such a proceeding. He answered same day, justifying publication on the ground that said notes are routine and tend to create jurisprudence, and that the subject of railway note is not diplomatic, and therefore, there is no breach of faith in publishing them. He closes by promising that "when really diplomatic matters are concerned this Ministry will never publish the correspondence exchanged." The next morning my railway note and the answer of the Minister for Foreign Affairs transmitted to Department in my No. 274, January 22, 1918, were published in *El Dia*.

I consider this matter of great importance and am preparing another note to the Ministry presenting the subject fully and insisting that such publication is contrary to diplomatic usage and in contravention of the agreement between the Foreign Office and the Diplomatic Corps, reported to Department in my No. 171, May 8, 1916.²

If Department has further instructions please send as soon as possible for incorporation in my note. Please answer by telegraph.

HARTMAN

File No. 422.11G93/948

The Secretary of State to the Minister in Ecuador (Hartman)

[Telegram]

WASHINGTON, March 19, 1918, 6 p. m.

The Ecuadoran Minister here has expressed to the Department the regret of his Minister for Foreign Affairs at the publication of certain notes in regard to the Guayaquil & Quito Railroad. Inform the Department exactly what notes were published and what effect their publication has had upon public feeling in Ecuador.

LANSING

¹ *Foreign Relations, 1917*, p. 746.

² Not printed. The agreement referred to, as embodied in a memorandum from the Ecuadoran Minister of Foreign Affairs dated April 28, 1916, was that, in the matter of publication of correspondence with representatives of foreign governments, the principle of "reciprocity in the practice of courtesy" should be observed . . . and that "the Government of Ecuador will proceed with the friendly governments as each one of them may proceed with it." (File No. 822.021.)

FILE NO. 422.11G93/949

The Minister in Ecuador (Hartman) to the Secretary of State

[TELEGRAM]

QUITO, MARCH 21, 1918, 11 a. m.

Department's March 19, 6 p. m. Fully answered in my March 14, 4 p. m., except as to the effect of publication upon public feeling which has been exceedingly prejudicial. Newspaper comment bitter.

I am astonished that the Minister for Foreign Affairs expressed regrets through Ecuadoran Minister and not through this Legation.

HARTMAN

FILE NO. 422.11G93/954

The Minister in Ecuador (Hartman) to the Secretary of State

[EXTRACT]

No. 299

QUITO, MAY 7, 1918.

SIR: Referring to my telegram of March 14, 1918, 4 p. m., and Department's telegram of March 19, 6 p. m., relating to the publication of official correspondence between the Foreign Office and this Legation, by the Government of Ecuador, without permission of this Legation, I have the honor to enclose herewith, for the information of the Department, one copy each of the following:

My note No. 266, of March 12, 1918, to the Foreign Office;

Note No. 4, of March 12, 1918, from the Foreign Office to this Legation;

Translation of said note No. 4. . . .

I have [etc.]

CHAS. S. HARTMAN

[ENCLOSURE 11]

The American Minister (Hartman) to the Ecuadoran Minister of Foreign Affairs (Tobar y Borgoño)

No. 266

QUITO, MARCH 12, 1918.

MR. MINISTER: It is with great surprise and deep disappointment that I have the honor respectfully to bring to the attention of your excellency the following matter:

1. In the issue of the *Bolctin del Ministerio de Relaciones Exteriores*, 4th series, Nos. 39 to 46, May to December 1917, pages 1640-59, there are published certain notes constituting official correspondence between your excellency's Ministry and this Legation, relating to questions pending and in process of diplomatic negotiation between us.

2. In the issue of the same publication, 5th series, No. 47, for January 1918, pages 1788-96, appears the publication of certain official correspondence between your excellency's Ministry and this Legation, in relation to important diplomatic questions in course of negotiation between our respective Governments.

3. In the newspaper *El Comercio*, of this morning, a purported Spanish translation of my note No. 254, of November 30, 1917, to your excellency, regarding an important subject pending, and in course of diplomatic negotiation between our respective Governments, was published in full, and a memorandum appears beneath it stating that the answer to that note will be published to-morrow.

I need not inform your excellency that the publication of the notes of this Legation, above mentioned, was made without my authority or consent, and I respectfully but most earnestly protest against such a proceeding, as it is not only contrary to diplomatic usage, but it is in direct contravention of the established and accepted principle agreed to and existing between your excellency's Ministry and the several Legations in Quito.

Furthermore, I have the honor earnestly to request that in the future no official correspondence between your excellency's Ministry and this Legation shall be published unless the consent of the Legation be first obtained.

I avail [etc.]

CHAS. S. HARTMAN

[Enclosure 2—Translation]

The Ecuadoran Minister of Foreign Affairs (Tobar y Borgoño) to the American Minister (Hartman)

No. 4

QUITO, March 12, 1918.

MR. MINISTER: I take note of your excellency's communication, No. 266, of to-day's date, in which you complain of the publication, in the *Bulletin of the Ministry of Foreign Relations*, Nos. 39 to 46, and 47, of certain communications exchanged between your excellency's Legation and this Ministry.

In reply, I may state to your excellency that those notes, which have not been of a confidential character, have been published in the official organ of this Ministry as many others of the same nature have been. Had a different class of matters, delicate and serious, been concerned, this Ministry, which has sufficient good judgment to respect diplomatic reserve, and which does respect it with the foremost, would not, as I have on several occasions stated to your excellency, have consented to their being given to the press without previously obtaining your excellency's permission; but your excellency, who said nothing when in the same official organ there appeared the notes relating to the difficulties that had arisen in Manabí respecting the Price estate, now finds it strange that routine notes such as those, and of no more importance, should have been published.

The notes referred to have been sent to press for the same reason that, in all the countries of the world, those communications that tend to create jurisprudence are published. In the latest notes a juridical point was discussed, with respect to which the Ecuadoran Government was obliged to determine the doctrine in its proper aspect; that is to say, establish what must be understood by a denial of justice; and that was the object this Ministry had in view when it consented to their being given to the press.

There is hence no breach of faith in the particular case in point; and I hold that routine notes such as those mentioned, and others contained in the *Bulletin*, are not of that special importance that calls for consultation prior to being published. Furthermore, communications relating to matters of law pertaining to private parties in connection with the Southern Railway, that can not be of diplomatic political interest, have always been published, before now, without any objections on the part of the American Legation: (in proof of which) it is sufficient for me to refer to the Memorials (Annual Reports) of the Ministry of Foreign Relations of these past years, and those of the Ministry of Public Works, in which have been published documents, notes, etc., of greater importance than those which have occasioned your excellency's communication.

It is a great misfortune that it should always be the Guayaquil & Quito Railway Co., or that which relates thereto, that occasionally gives rise to a disparity of views as between the Legation your excellency is worthily in charge of and this Ministry; but, in the present instance, I must state that I find the complaints groundless, the matters being such as can never be of political interest, properly so called, and therefore their publication will not interfere with, or even lessen, the good relations which happily are maintained by your excellency's country and mine.

El Comercio of this morning has done nothing more than to reproduce the note published in the *Bulletin*; and your excellency will agree with me that the fact of its reproduction is a very small matter in this affair.

I repeat to your excellency my previous promise that, when really diplomatic matters are concerned, this Ministry, a fulfiller of its duties, will never publish the correspondence exchanged. Possibly in the present instance there is only a difference of opinion with respect to the character of the notes; which opinion, so far as the Ministry of Foreign Relations is concerned, is hereby corroborated: that is to say, it believes that the subject matter of the said notes lacks any international political character which would call for reserve.

I avail [etc.]

TOBAR Y BORGOÑO

File No. 422.11G93/996

The Ecuadorian Minister (Elizalde) to the Secretary of State

[Translation]

WASHINGTON, June 5, 1918.

The Minister of Ecuador respectfully salutes the Secretary of State and has the honor to submit to him a rough draft of the conference he had with him at 11.15 a. m. on the 4th instant.

The Minister wishes to have an authorized and accurate record of that conference for transmission to the Government of Ecuador and takes the liberty of asking the Secretary of State to be so good as to make corrections wherever needed in the enclosed rough draft, a favor which will be duly appreciated.

[Enclosure—Translation]

Memorandum on a conference between the Secretary of State and the Ecuadorian Minister (Elizalde)

WASHINGTON, June 4, 1918.

Señor Elizalde answered the call of the Secretary of State.

Mr. Lansing said that he wishes to aid Ecuador and warned at the same time that the interests due to the railway company must be paid in order to avoid more serious restrictions being placed by the War Trade Board on the import of cacao in the United States.

Señor Elizalde said that the moment did not appear to him to be well chosen for taking such measures, inasmuch as the customhouse receipts, which are practically the only source of revenue of the Government, had considerably decreased and a large deficit in the estimates and deep uneasiness prevail in the country on that account.

Mr. Lansing said that the exports of Ecuador this year are larger than they were last year.

Señor Elizalde replied that he had not yet received the returns, but was sure that the imports were much less than they were last year.

Mr. Lansing asked how there was money for the German contractors to build railways in Ecuador and none with which to pay the interest due to the Guayaquil & Quito Railway Co.

Señor Elizalde answered that the Cuenca railway contract had been given to a German firm, but that was before the war and that the work was started with funds specially created for the purpose without detriment to the income assigned for the service of interests on the railway bonds; he added that at present work on the Cuenca railway is suspended.

Mr. Lansing insisted that the interests must be paid in accordance with the Ecuadorian estimates of 1917, which he showed to the Minister, and certain parts of which were pointed out by Mr. Lansing.

Mr. Lansing added that he thought that his opinion would have weight with the War Trade Board and that he would be glad to have in the promise of resumption of payment of those interests a good argument to bring against a reduction of cacao imports.

Mr. Lansing then said that the publication by the Government of Ecuador of certain notes exchanged with the American Legation at Quito had created a very bad impression and that it should not have been done.

Señor Elizalde declared that when it happened and when Mr. Hartman, American Minister at Quito, protested, Señor Elizalde called upon Mr. Polk, Counselor of the Department of State, and in expressing the regret which the protest had caused to the Government of Ecuador, then explained to Mr. Polk that the publication was made not with the object of stirring up of difficulties between the two Governments, but rather of avoiding them.

Mr. Lansing in bringing the interview to an end told Señor Elizalde that hereafter he should talk this matter over with Mr. Stabler, Chief of the Latin American Division, as Mr. Lansing is going to the country for a few days.

File No. 422.11G93/995

The Ecuadorian Minister (Elizalde) to the Chief of the Division of Latin American Affairs (Stabler)

[Translation]

WASHINGTON, June 5, 1918.

The Minister of Ecuador respectfully salutes the Chief of the Latin American Division of the Department of State and has the honor to submit to him a rough draft of the conference he had with him at 12 a. m. on the 4th instant.

The Minister wishes to have an authorized and accurate record of that conference for transmission to the Government of Ecuador and takes the liberty of asking Mr. Stabler to be so good as to make corrections wherever needed in the enclosed rough draft, a favor which will be duly appreciated.

[Enclosure—Translation]

Memorandum of an interview between Mr. Stabler and the Ecuadorian Minister (Elizalde)

WASHINGTON, June 4, 1918, noon.

Señor Elizalde said he would be thankful for precise information as to what the Department of State wished, so as to avoid restrictions on the export of cacao from Ecuador to the United States.

Mr. Stabler said that what the Department of State desires is the resumption of the payment of interests to the railway company of Guayaquil to Quito, through a daily deposit of the 365th part of the annual amount in accordance with the provisions of the contract.

Mr. Stabler added that in addition to that daily payment, the Department of State wishes that 50 per cent of the export duties on cacao shipped to the United States be applied to the payment of the interests in arrears, and that to that end, the American Consul at Guayaquil will be instructed not to certify the consular invoices until evidence is produced that the said 50 per cent was deposited in the bank to the railway's order.

Señor Elizalde answered that that proceeding is an imposition and that it will be attended with the gravest consequences in the relations between Ecuador and the United States, which relations the public men of both countries must endeavor to maintain as cordial as possible. Ecuador. Señor Elizalde went on to say, could have remained neutral, but preferred to give proof of her Pan-American solidarity by breaking relations with Germany and so offering to the United States a special token of friendship. This situation having been brought about, said he, there is no reciprocity in that kind of proceeding. "For my part," added Señor Elizalde, "I would rather burn all the cacao of Ecuador" and accept any other condition however painful it might be, rather than a humiliating imposition.

Señor Elizalde said that he would not transmit that proposition to his Government, because it would defeat any arrangement from the beginning, and that in order to cable to his Government, he asked that all course of action be suspended for a fortnight.

Mr. Stabler said that the Government of the United States had no desire whatever to create a strained situation with Ecuador, much as it had been displeased with the publication of diplomatic correspondence exchanged between the Chancellery of Ecuador and the Legation at Quito, which publication might appear to have been inspired by some unfriendly sentiment.

Señor Elizalde said that it was not to Ecuador's interest to foment such sentiments, that the Government of the United States had just received from the Government of Ecuador good evidence of friendship in the breaking off of relations with Germany, and that those notes had been published without any hostile intent, but quite to the contrary, that the Government of Ecuador makes a very broad moral distinction between the Government of the United

States and the Guayaquil & Quito Railway Co., which company is the only obstacle in the path of good relations between the two Governments, and that the notes were published simply and solely because they dealt with the affairs of the said company.

Mr. Stabler said that he would speak to Mr. Lansing about suspending any course of action for a reasonable time.

Señor Elizalde said that he wished to know exactly how far the criticism went of the attitude of the Government of Ecuador in its adhering to a railway contract with a German firm.

Mr. Stabler said that Ecuador having broken relations with Germany, it was natural to rescind the contract.

Señor Elizalde said that he supposed that the Government of Ecuador would endeavor to do so, provided the said firm should not live up to its obligations and that in justice and honor the contract should be rescinded.

File No. 422.11G93/957a

The Acting Secretary of State to the Minister in Ecuador (Hartman)

[Telegram]

WASHINGTON, June 6, 1918, 6 p. m.

The Secretary of State requested the Ecuadoran Minister to call on him this morning, and informed him, with reference to a note written by the Minister inquiring whether the importations of cacao into the United States from Ecuador were going to be restricted, that the War Trade Board proposes to restrict very considerably, and possibly entirely, the importations of cacao into the United States from Ecuador, in order to save tonnage for important war purposes. The Secretary of State further informed the Ecuadoran Minister that the State Department would be in a much stronger position to influence the War Trade Board to lessen the restrictions placed on the importation of cacao from Ecuador if the Ecuadoran Government would resume at once its daily payments of a 365th part of yearly payment of the interest of the Guayaquil & Quito Railroad bonds and would deposit 50 per cent of the export duty on all cacao exported as part payment of the amount which Ecuador now owes as interest on these bonds, the American Consul in Guayaquil to be informed officially by the Government of Ecuador of the deposit made before issuance of license for each shipment of cacao. The Minister of Ecuador requested that he might have time to take this matter up with his Government in order to try to arrange for some satisfactory settlement of the matter before any step be taken by the United States to carry out its above-stated program. The Secretary of State said that he would withhold any further action in the case for ten days.

POLK

File No. 422.11G93/958

The Minister in Ecuador (Hartman) to the Secretary of State

[Telegram]

QUITO, June 12, 1918, 4 p. m.

Department's June 6, 6 p. m. At the request of the Minister for Foreign Affairs, I called at Foreign Office Saturday. The Minister

informed me that he had received telegram from Ecuadorian Minister at Washington, stating that the Secretary of State of the United States had notified him on June 6 that the Government of Ecuador must resume deposits and set aside funds to cover arrear interest Guayaquil & Quito Railway bonds, and if not done, importation of cacao from Ecuador into the United Kingdom [States?] would be prohibited after June 15. He reaffirmed the desire of his Government to pay all his [its] obligations, but stated that present circumstances have prevented doing it.

He attributes decreased revenues to the restrictions of the Allied powers to Ecuadorian commerce and says that the revenues are not sufficient to pay ordinary administrative expenses, notwithstanding annual economies of 5,000,000 sures, all other expenses having been eliminated except railway construction, which has been reduced to a minimum. He therefore claimed present inability to pay.

I endeavored obtain a definite promise as to when deposits would be resumed and payments on delinquent interest made, same to be secured by 50 per cent of export duties on all cacao exported in the event of restrictions being removed, but this point was repeatedly evaded. However, afterwards he said that if Ecuador could obtain unrestricted commerce it could for the time being and until the end of the present economic crisis occasioned by the war make the service of the partial payment bonds.

At my suggestion, the substance of his statements and proposals was reduced to written memorandum and delivered to me with his request that the substance be cabled to the Department, and he orally expressed his belief that the matter could be satisfactorily arranged, but said that the time fixed for answer is very short. He says that if the order of prohibition is made, the matter being of such an importance to Ecuador, he will be compelled to give publicity to the entire matter which will result in bitter criticism of the United States by the press and people of Ecuador.

HARTMAN

File No. 422.11G93/957

The Ecuadoran Minister (Elizalde) to the Secretary of State¹

WASHINGTON, June 13, 1918.

I have instruction from my Government to communicate to you the following:

That the real ultimatum proposed by the Department of State to the Government of Ecuador to oblige the payment of interests to the railway has caused great surprise;

That the American Legation in Quito must have informed the State Department about the financial situation of last month, which, due to the American and Allies' prohibitions, was very trying, so much so, that it was not even possible to cover the expenses of the administration, and caused the suspension of payment of the public debt;

¹ The file copy of this document bears no date or signature, but the following notation appears on the margin: "Handed me by Ecuadoran Minister June 13, 1918 R. L."

That the mere demand of the State Department, supported by the threat to prohibit the importation of cocoa, constitutes a hostile act which does not correspond to the recent tokens of sympathy shown towards the United States;

That the President of Ecuador in consideration of the present circumstances took upon himself not only the responsibility of not carrying out the legislative decree which ordered an action against the company in the national courts, but also authorized the railway company to increase the rates by 10 and 5 per cent;

That Mr. Norton, president of the company, was recently in Quito and did not make a reclamation;

That if the threat is carried out, it would be necessary to explain to the cocoa exporters the real cause, which would be injurious to the American interests in Ecuador;

That the mere publication of the reason would affect the principles of respect for the rights of weaker nations, which rights have been championed, specially of late, by the United States;

To investigate if the free and unlimited importation of Ecuadoran products to the United States would be guaranteed on the condition of paying, to the extent that is possible, the interest to the railway company.

File No. 422.11G93/966a

The Secretary of State to the Ecuadoran Minister (Elizalde)

WASHINGTON, June 19, 1918.

The Secretary of State presents his compliments to the Ecuadoran Minister and wishes to acknowledge the receipt of his memorandum enclosing copies of his notes on the conversations which he had with him and with the Chief of the Latin American Division on June 4 with reference to the matter of the restriction on imports of cacao from Ecuador into the United States.

After a careful consideration of these notes the Secretary of State desires to point out to the Ecuadoran Minister that he apparently has misunderstood the purpose of the Department of State in bringing this matter to his attention at this time, and therefore desires to correct any erroneous impression which the Ecuadoran Minister may have received in respect to this matter.

In view of the fact that the Ecuadoran Minister at Washington had addressed a note to the Secretary of State requesting that no restriction on imports be placed upon Ecuadoran cacao, the Secretary of State felt that, in all justice to the Minister, the probable program of this Government in reference to the import of cacao from Ecuador should be explained to him.

The restriction on imports of certain commodities under consideration by the Government of the United States is one of vital moment for the purpose of saving tonnage for important war needs, and, as the saving of tonnage is one of the gravest questions which must be considered at this time, all facts in connection with it have to be carefully studied. The study and decision of these matters devolve by law upon the War Trade Board, and the Department of State is in a position of merely using its good offices with that board in the interest of good relations with foreign countries.

The Department of State, therefore, in order to be of service to Ecuador, informed the Ecuadoran Minister that it would be in a better position to use its good offices in requesting the board that the Ecuadoran contentions, as set forth in the Minister's note, be given more favorable consideration should Ecuador reassume her just obligations to American citizens and also make provision for the payment of her back debts in the Guayaquil & Quito Railway case. Upon consideration the Ecuadoran Minister will perceive the natural interdependence of these two matters in the present circumstances.

As the length of the haul from the ports of Ecuador to the United States is far greater than from other cacao-producing countries, it can clearly be seen that a great saving of tonnage would result by only bringing in cacao over routes where there is a short haul. It will also be quite plain that co-belligerents of the United States have the superior claim upon this country for certain privileges. The inconvenience to the United States of the concession requested by the Ecuadoran Minister is therefore readily apparent.

Viewed in this light, the suggestion which the Department of State has made in regard to the resumption of the daily deposits of interest on the railway bonds and the deposit of a certain portion of the export duties on cacao can not be construed, as the Ecuadoran Minister seems to have construed it, in the nature of an imperative demand upon the Ecuadoran Government, but is in reality a clear and frank statement of facts regarding the present situation.

It is desired, however, to point out that when all matters in connection with restriction on imports from various countries are taken into consideration, the Department of State will be in a less favorable position to present Ecuador's desires to the other Departments of the Government than if Ecuador had proved its willingness to protect the interests of American citizens in accordance with its solemn obligations. The Department of State is informed by the branch of the Government which has the execution of the restriction of the imports under its direct control, that on June 28 all discussion in regard to these matters must be brought to a close.

ROBERT LANSING

File No. 422.11G93/956

The Secretary of State to the Minister in Ecuador (Hartman)

[Telegram]

WASHINGTON, June 19, 1918, 2 p. m.

Your June 12, 4 p. m. You may hand the following memorandum to Minister for Foreign Affairs in unofficial manner saying that it has been presented to Ecuadoran Minister in Washington.

[Here follows the above memorandum of June 19, 1918, to the Ecuadoran Minister.]

Keep the Department advised daily in regard to any developments in situation. The Department has kept Norton, now at Panama, informed of this matter.

LANSING

File No. 422.11G93/954

The Secretary of State to the Minister in Ecuador (Hartman)

No. 189

WASHINGTON, June 20, 1918.

SIR: The Department has received your No. 299 of May 7, transmitting correspondence in regard to the Ecuadoran Government's action in publishing, without the Legation's permission, official notes exchanged by the Legation and the Foreign Office.

The Department approves of your action in protesting against this publication and requesting that in future such correspondence be not made public without the Legation's consent, and in declining to accept the explanations offered by the Foreign Office in attempting to justify its course.

I am [etc.]

For the Secretary of State:

ALVEY A. ADEE

File No. 422.11G93/959

The Minister in Ecuador (Hartman) to the Secretary of State

[Telegram]

QUITO, June 23, 1918, 11 a. m.

Department's June 19, 2 p. m. Matter unofficially delivered yesterday. No answer.

HARTMAN

File No. 422.11G93/967

The Ecuadoran Minister (Elizalde) to the Secretary of State

[Translation]

No. 14

WASHINGTON, July 6, 1918.

SIR: I have the honor to say to the Secretary of State that in consideration of the reasons stated in his kind memorandum of June 19, which were in due course communicated to my Government, I am authorized by it to inform the Secretary of State that it is disposed to set apart out of the customs receipts and deposit an amount commensurate to the service of interest of the English debt, provided that no restriction be placed on the importation of cacao from Ecuador into the United States.

My Government thus accedes to the suggestion made by the Secretary of State with the object of being put in position to use his good offices with the War Trade Board, as is inferred from a perusal of the said memorandum, and firmly hopes that the said good offices will have the effect of maintaining and strengthening, if possible, the good relations of our two countries.

I avail [etc.]

R. H. ELIZALDE

File No. 422.11G93/960

The Secretary of State to the Minister in Ecuador (Hartman)

[Telegram]

WASHINGTON, July 9, 1918, 6 p. m.

Department's July 8, 5 p. m.¹ Immediately inform Government of Ecuador that upon assurances of Minister of Ecuador to Washington, Department has been able to obtain from War Trade Board authorization for 7,200 tons of cacao to be imported from Ecuador to the United States from July 1 to December 31, 1918. This is maximum which present available tonnage can carry, and with what has already been imported, will approximate Ecuador's last year's exports to the United States. You will impress upon Government of Ecuador the fact that this concession by the War Trade Board has been made only after considerable effort on the part of the Department, as the War Trade Board had allocated large proportion of this tonnage to other purposes.

You will say that the Government of the United States expects the Government of Ecuador to resume daily deposits immediately upon receipt of this information.

LANSING

File No. 422.11G93/962

The Minister in Ecuador (Hartman) to the Secretary of State

[Telegram]

QUITO, July 12, 1918, 8 a. m.

Department's July 9, 6 p. m. Yesterday noon I fully complied with Department's instruction, but have not received any answer. Will report by telegraph when received.

HARTMAN

File No. 422.11G93/967

The Acting Secretary of State to the Ecuadoran Minister (Elizalde)

No. 28

WASHINGTON, July 23, 1918.

SIR: I have the honor to acknowledge the receipt of your note of July 6, wherein you state that your Government accedes to the suggestions made by this Department relative to the setting apart out of the customs receipts and the depositing out of these receipts of an amount commensurate with the service of the interest on the Guayaquil & Quito Railroad bonds, in order that this Department might be in a position to use its good offices with the War Trade Board regarding the amount of cacao that the War Trade Board will allow to be exported from Ecuador to the United States.

Acting on your assurances that your Government had assented to the above-mentioned suggestions, the Department of State has been able to obtain from the War Trade Board, authorization for 7,200 tons of cacao to be imported to the United States from Ecuador,

¹ Not printed.

from July 1 to December 31, 1918. It required considerable effort on the part of this Department to secure this authorization from the War Trade Board, as that board had allocated a large proportion of the tonnage necessary to carry this amount of cacao to other purposes. The 7,200 tons of cacao to be imported during the last 6 months of this year, together with the amount imported during the first half of the present year, will make the total amount approximate Ecuador's last year's exports to the United States.

The Department of State and the War Trade Board having taken the above-mentioned action, this Department expects that the Government of Ecuador will resume immediately daily deposits in payment of the interest on the Guayaquil & Quito Railroad bonds.

Accept [etc.]

FRANK L. POLK

File No. 422.11G93/969a

The Acting Secretary of State to the Minister in Ecuador (Hartman)

[Telegram]

WASHINGTON, August 9, 1918, 6 p. m.

The Department has cabled the Consul at Guayaquil the resolution of the War Trade Board that forthwith all outstanding licenses for the importation of cacao from Ecuador will be suspended and that until further notice he will refuse to certify invoices for shipments of cacao to the United States. Should the Government of Ecuador immediately commence to make deposits as it has agreed to do, the Department will probably be in a position again to approach the War Trade Board in regard to the importation of cacao from Ecuador.

POLK

File No. 422.11G93/971

The Minister in Ecuador (Hartman) to the Secretary of State

[Telegram]

QUITO, August 14, 1918, 4 p. m.

Department's August 9, 6 p. m. received Saturday. At request of the Minister for Foreign Affairs I called upon him Sunday forenoon. After extended interview on the subject of cacao importations from Ecuador to United States and resumption of deposits for service of Guayaquil & Quito Railway bonds, I suggested that he furnish memorandum definitely stating his Government's attitude. He agreed to do so and yesterday afternoon I received his unofficial memorandum of which the following is substance.

Ecuadorian Minister for Foreign Affairs has not received information as to the terms of agreement reached in Washington relating to payments to bondholders and daily deposits. In a private and unofficial way the Minister states that on August 8th Minister of Hacienda ordered setting aside funds for daily deposits. Since such being the case, daily deposits will not probably exceed 1,000 sucres per diem and will not be sufficient for Colombia [Ecuador?] to pay one coupon. It is suggested

that 75 per cent of the proceeds of the sale of 250,000 quintals cacao now in Guayaquil owned by auxiliary cacao association can, by agreement between the Ecuadoran Government and the association, be applied to the payment of one coupon.

This will enable Ecuador to draw against the 25 per cent surplus and assist in increasing imports and hence daily deposits. Yesterday afternoon newspapers published cable from New York containing information of the suspension of cacao importation. This news has produced much bitter comment.

The Minister for Foreign Affairs called at the Legation last night and inquired as to the truth of the cable published regarding suspension of cacao importation and instructions to consuls. I could not verify the statement because of confidential character of Department's telegram, and hence suggested that he inquire of Consul General at Guayaquil through governor.

Evidently he is concerned regarding possible action to-day, as he has been instructed to appear and answer questions affecting international relations. Will telegraph further developments.

HARTMAN

File No. 422.11G93/972

The Minister in Ecuador (Hartman) to the Secretary of State

[Telegram]

QUITO, August 15, 1918, 5 p. m.

My August 14, 4 p. m. On request of Minister for Foreign Affairs I had an interview with him to-day. He informs me that interrogatories will probably [be] postponed until Saturday. He expressed an apprehension that Congress will take radical measures relating to railway matters and other American interests because of suspension of cacao importations which might involve his resignation, and expressed the hope that Department's answer to my August 14, 4 p. m., might be received before Saturday. I concur in that hope as I regard the Minister for Foreign Affairs the best friend of America and the ablest man connected with the administration.

HARTMAN

File No. 422.11G93/973a

The Secretary of State to the Minister in Ecuador (Hartman)

[Telegram]

WASHINGTON, August 16, 1918, 5 p. m.

The Ecuadoran Minister has informed the Department that he understands that the Ecuadoran Government resumed deposits upon Guayaquil & Quito Railroad bonds on August 8. Have you received any information to this effect from the Foreign Office? If deposits have been resumed, cable Department manner of resumption, exact amount, etc.

LANSING

File No. 422.11G93/973

The Minister in Ecuador (Hartman) to the Secretary of State

[Telegram]

QUITO, August 17, 1918, 5 p. m.

Department's August 16, 5 p. m. I informed Department in my telegram of August 14, 4 p. m., of resumption of deposits by Ecuador August 8 and to-day asked information of the Minister for Foreign Affairs as to the limitation on resumption and exact amount. Following memorandum just received signed by Undersecretary, Ministry of Hacienda.

By executive order issued on the 8th instant, the Treasurer of Guayaquil was ordered to deposit in the Banco Commercial y Agricola of Guayaquil approximately 1,000 sures daily on account of the revenues of importation assigned to the service of the Guayaquil & Quito Railway bonds; amounts which are being scrupulously deposited and will be applied to their proper purpose.

HARTMAN

File No. 422.11G93/974

The Ecuadorian Minister (Elizalde) to the Secretary of State[Translation¹]

MEMORANDUM

Since the daily payments, which the Government of Ecuador has reestablished to take care of the service of the interest on the bonds of the Guayaquil & Quito Railroad Co., are a certain percentage of the revenues from the customs, and since these revenues have diminished much because of the war in Europe, and because of the restrictions on importation and exportation imposed by the United States, the above-referred-to certain percentage probably will not be enough to cover the entire value of the interest coupons for the present year.

In order to make possible the complete payment of these coupons, the Government of Ecuador proposes that it be permitted to export to the United States all the cacao which is actually stored in Ecuador, which is about 14,000 tons. The price of sale would be used for the entire payment of the coupons, which payment amounts to \$859,740.

The difference between the value of the cacao and of the coupon payments will permit the Government of Ecuador to sell drafts on the United States to Ecuadoran importers and will invigorate the importation of American-manufactured articles in Ecuador.

WASHINGTON, August 21, 1918.

File No. 422.11G93/975a

The Secretary of State to the Minister in Ecuador (Hartman)

[Telegram]

WASHINGTON, September 11, 1918, 5 p. m.

General manager in Ecuador of Guayaquil & Quito Railway Co. has telegraphed Norton as follows:

Department advised by telegraph action Congress railway.

¹ The Spanish word "cupón" has been translated incorrectly herein as "coupons" and as "coupon payments."

Council of Foreign Bondholders, London, wires Norton:

If no prospect better arrangement, suggest you do what you can with State Department's assistance, if obtainable, to support in Ecuadoran Congress Finance Minister's proposal to pay arrears in new bonds.

Cable Department what action Ecuadoran Congress is considering taking with regard to railway and with regard to arrears in payment of railway bonds.

LANSING

File No. 422.11G93/978

The Minister in Ecuador (Hartman) to the Secretary of State

[Telegram]

QUITO, September 20, 1918, 11 a. m.

I am informed that Minister of Finance will not present proposal to Congress for new issue railway bonds, but that Senators and Deputies may consider subject on their own motion.

I do not believe anything will be done by Congress on that subject and prevalent opinion no legislation affecting the railway will pass.

HARTMAN

File No. 422.11G93/978a

The Secretary of State to the Minister in Ecuador (Hartman)

[Telegram]

WASHINGTON, October 14, 1918, 7 p. m.

Cable Department whether Ecuadoran Government is continuing to make deposits on interest on railroad bonds and how much it has deposited up to date. Have any remittances been made to London? Also advise Department where money is deposited and under what conditions, and whether money can be withdrawn, if so desired, by Government of Ecuador.

LANSING

File No. 422.11G93/979

The Minister in Ecuador (Hartman) to the Secretary of State

[Telegram]

QUITO, October 25, 1918, 7 p. m.

Department's October 14, 7 p. m. Daily deposits made regularly since August 8 in Banco Commercial y Agricola amounting 67,000 sures. London remittances.

Will advise you as soon as possible whether Ecuadoran Government can withdraw money if it so desires.

HARTMAN

The Ecuadoran Minister (Elizalde) to the Counselor for the Department of State (Polk)

WASHINGTON, November 15, 1918.

MY DEAR MR. COUNSELOR: Bearing in mind your personal good will, I am presuming to address you in this form because it seems to me the most adequate in order that you may know as soon as possible certain details of the situation that Ecuador is suffering at present, on account of the restrictions placed by the War Trade Board on the importation of Ecuadoran cocoa into the United States.

The termination of the war, end for which the attitude assumed by the Government of the United States was decisive, to its glory and the gratitude of the world, raises the presumption that the restrictions to international commerce, imposed by the war, will close with the formal advent of peace.

But as this delay and the situation, which I am going to explain to you, requires immediate remedy, I have believed it to be my duty to present the same to you.

Permit me to respectfully call your attention to a serious economic situation facing my country which, I believe, it is in the power of your Government to forestall or remedy without any sacrifice of your own vital interests.

In view of the friendly spirit so often manifested by the Government of the United States towards its sister Republics in South America, I do not hesitate to address you, therefore, with the suggestion that the restrictions now existing on the importation into the United States of cocoa beans (the export commodity on which my country's economic life depends) be altogether removed, or at least diminished.

Ecuador's annual production of cocoa beans is approximately 45,000 tons, constituting about 15 per cent of the world's crop. Formerly marketed in Europe, largely through German channels, practically the entire quantity for the past two years has been purchased by chocolate manufacturers in the United States, and in view of certain advantages over nearly all other grades of cocoa, it has become one of the principal ingredients in the formulas of the majority of American chocolate manufacturers to-day.

In 1916, cocoa represented \$12,773,040 or 72½ per cent of Ecuador's total exports of \$17,600,598. There are no figures as yet available for 1917 or 1918.

For the six months ending December 31, 1918, the War Trade Board of the United States has limited the importation from Ecuador of cocoa beans to 7,200 tons. More than half of this allocation has already been shipped, and the other half will probably be less than the amount that the cocoa plantations will have ready for market during the remainder of this year, thus keeping the stocks on hand at their present level of 15,000 tons, a large part of which is already old stock produced during the latter part of 1917 or early in 1918 and subject to rapid deterioration. For the first 6 months of 1919, the production is estimated at 27,000 tons, thus making a total stock, with that carried over from 1918, of about 42,000 tons of cocoa by June 30, 1919.

Cocoa, unlike other commodities in Latin American countries upon which restrictions have been placed by the War Trade Board, is a perishable foodstuff which, if kept in the tropical climates of its origin, is liable to become worm-eaten and otherwise deteriorate rapidly (say, in about nine months), but if shipped to a temperate climate, may be safely kept in store for a period of about two years. The commerce and finance of Ecuador have suffered greatly by the war, since none of its products have increased in price, as have those of many other Latin American countries. On the contrary, the price of its principal commodity, cocoa beans, has been less than in pre-war times, and is to-day about 10 per cent less than the average market value for the ten-year period prior to 1914. The country's economic difficulties have unfortunately been aggravated by the recent restrictions upon the importation of cocoa into the United States. In spite of the endeavors of my Government, there has been a most serious rise in the rate of exchange, which went as high as 320 sucre for \$100, as against the normal rate of 205 sucre. This rise is the natural consequence of the decline in exports. If Ecuador can not ship her cocoa, the exchange situation will become worse. Importers of American goods, because of inability to buy exchange, except at exorbitant rates, will have to curtail their importations still more. With inability to sell its products, the country's purchasing power will be reduced, and the Government revenues derived chiefly from import and export taxes will decrease, and it will be doubly embarrassed in meeting its foreign obligations by reduced income and the exorbitant price it would have to pay for foreign drafts.

Ecuadorian planters, unable to sell their product, and seeing it become valueless through deterioration, will be permanently injured, as they will be unable, for lack of funds, to properly maintain their plantations, whose output will thereby be reduced for four or five years afterwards. The future consequences of this curtailment of supply would be an increase in the price of this commodity in the world's markets, entailing an increase in the cost to the consumer of chocolate, cocoa and its by-products, all of which may be considered essentials throughout the world.

Permit me to point out that the primary purpose of the restrictions imposed by the United States Government, namely, the saving of tonnage, need not be interfered with. It is a comparatively short haul from Guayaquil to the United States, and it is feasible for cocoa to be shipped in small steamers or sailing vessels which by reason of their size or otherwise can not be used in European service or for the shipment of cargoes of nitrate, sugar, etc., which can not stand the same high freight rate as cocoa. I have been informed in this connection that the *Nankai Maru*, a Japanese vessel, will this month load about 20,000 bags of cocoa at Guayaquil for San Francisco, part of Ecuador's allocation of 7,200 tons aforesaid, and that the said steamer would be prepared to take a much larger cargo if the import regulations of the United States permitted.

The removal in their entirety of import restrictions would be greatly appreciated, I am sure, by other Latin American countries producing cocoa, such as Brazil, Venezuela, Santo Domingo, etc. Certain special considerations, I understand, have been given to ship-

pers of cocoa from Santo Domingo and from the British colonies in West Africa. Would it not be possible for your Government to show a like special consideration to Ecuador? For instance, by anticipating so as to permit shipment prior to December 31, 1918, of the present stock of cocoa before the Ecuadoran rainy season sets in, in anticipation of the greater allocations to which Ecuador reasonably looks forward in 1919. Such anticipation during the remainder of this year of future allotments would prevent the present stock on hand from becoming destroyed by climatic changes.

The new crop can not possibly be shipped before April or May, and before that date there is no cocoa in Ecuador, and by that time the restrictions are likely to have been removed altogether, or Europe will buy said new crop.

It is of utmost importance to get the present stock of cocoa out of the country because a great deal of it is about one year old and will surely deteriorate if carried through the Guayaquil summer, beginning in January and ending in April. If this should happen, it is equivalent to Ecuador losing a corresponding amount of capital.

It is just at present that the Ecuadoran Government and Ecuadoran commerce need assistance. If this cocoa could be shipped immediately, the Ecuadoran Government would get at once a large amount of export taxes and there would be pretty nearly \$3,000,000 of exchange drafts available, and which will bring the exchange rate down to a normal level and thus help the Ecuadoran Government in purchasing remittances for the foreign debt at low rates, and equally help the importers.

On the other hand, if no shipments are made, exchange is liable to get entirely out of hand and the financial crisis is inevitable.

I also request that, in the matter of allocations by the War Trade Board, due consideration be given to the interests of the Ecuador producers, so that they may be permitted to market their cocoa through the channels to which they have been accustomed in the past. It might be taken for granted that this would be done, were it not for the recent attitude that, I am informed, has been taken by the cocoa division of the War Trade Board, which, I am informed, seemed to think that it would be proper for American buyers of Ecuador cocoa to take advantage, to the detriment of the Ecuador producers, of the power given them by the War Trade Board in making them the only recipients of the restricted quantity of cocoa to be imported from Ecuador. Notwithstanding the prevailing market price in New York for Ecuador cocoa of 13 to 13½ cents per pound, willingly paid by manufacturers, the aforesaid division suggested to the agents of the *Asociación de Agricultores* (a farmers' cooperative association in my country) that they sell the *Asociación's* cocoa at a price of 11¼ cents per pound, a price below that obtained for other grades of cocoa at the same time, on the plea that one or two manufacturing concerns had stated that if they obtained licenses for a part of the allocation of 7,200 tons, they could purchase at that price in Guayaquil. If the War Trade Board adopted the policy of granting licenses for cocoa importations only directly to the purchasers, they might naturally be tempted to use this power to purchase at as low a figure as possible, even forming a combination therefor, and the Ecuadoran producers holding a much larger stock of a perishable commodity than they can possibly hope to export,

would naturally have to accept any price offered to them by the parties in whose hands the War Trade Board had unwittingly placed this weapon.

The policy which my Government would desire be followed in this respect is a policy of liberty and justice which may avoid the monopoly made by consignees or by manufacturers, and to obtain this result the better, in my judgment, would be to establish the rule of not granting import licenses on applications which are not recommended by this Legation. My Government would be able to make the allotments in Ecuador to the respective exporters, big or little, proportionately and equitably, and to give me the corresponding instructions. In this same sense I sent to you my official communication of the 27th of last July, No. 16.¹

Exportation on consignment ought not to be prohibited because this is the balance weight that would prevent the formation of manufacturers' trusts which lower or depress the market with probable damage to the Ecuadoran producers and with the upsetting of current prices in the New York market, which would affect the interests of other American manufacturers, or it may be those who would have bought cocoa at higher prices.

I am [etc.]

R. H. ELIZALDE

File No. 422.11G93/979

The Secretary of State to the Minister in Ecuador (Hartman)

[Telegram]

WASHINGTON, November 21, 1918, 6 p. m.

Your October 25, 7 p. m. Are the daily deposits made in the name of the Council of Foreign Bondholders? What is the amount of remittance already made to London?

LANSING

File No. 422.11G93/988

The Minister in Ecuador (Hartman) to the Secretary of State

[Telegram]

QUITO, November 26, 1918, 8 a. m.

Department's November 21, 6 p. m. Daily deposits made favor Guayaquil & Quito Railway Co. Total amount 79,000 sucre; no remittances to London.

HARTMAN

File No. 611.226/16

The Secretary of State to the Ecuadorian Minister (Elizalde)

No. 43

WASHINGTON, November 29, 1918.

SIR: I have the honor to refer to your memorandum of August 21, and to your communication of November 15, in both of which the request was made that import licenses might be granted by the appropriate authorities of the United States Government for the importation into the United States of the cacao now actually stored in Ecuador.

¹ Not printed.

In your memorandum of August 21 you stated that in order to make possible the complete payment of the coupons¹ of the Guayaquil & Quito Railroad Co. bonds the Government of Ecuador proposes that it be permitted to export to the United States all the cacao which is actually stored in Ecuador which is about 14,000 tons, this price of sale to be used for the entire payment of the coupons¹ which payment amounts to \$859,740.

It gives me pleasure to inform you that the Department of State is informed that the War Trade Board has to-day passed a resolution authorizing the importation from Ecuador to the United States of 14,000 tons of cacao. I am particularly glad to give you this information inasmuch as the Department of State is happy to have been able to be of assistance to Ecuador in gaining permission for the exportation of this cacao and thus aid in bettering the financial conditions in Ecuador.

The Government of the United States is pleased that the Government of Ecuador will now make a payment covering the entire amount due on the coupons¹ of the Guayaquil & Quito Railroad Co.'s bonds, thus fulfilling its obligations to this American company.

Accept [etc.]

ROBERT LANSING

File No. 422.11G93/974

The Secretary of State to the Minister in Ecuador (Hartman)

No. 206

WASHINGTON, December 6, 1918.

SIR: With reference to the Department's telegram which was sent to you on December 6,² regarding the exportation of 14,000 tons of cacao from Ecuador and the payment of the proceeds of the sale of this cacao on the coupons¹ of the Guayaquil & Quito Railroad Co.'s bonds, there are enclosed for your information translation of a note dated August 21, from the Minister of Ecuador, and the answer of the Department thereto, dated November 29.

The Minister's note reads in part:

In order to make possible the complete payment of these coupons,¹ the Government of Ecuador proposes that it be permitted to export to the United States all the cacao which is actually stored in Ecuador, which is about 14,000 tons. The price of sale would be used for the entire payment of the coupons,¹ which payment amounts to \$859,740.

In the Department's note of November 29, the following statement is made:

The Government of the United States is pleased that the Government of Ecuador will now make a payment covering the entire amount due on the coupons¹ of the Guayaquil & Quito Railroad Co.'s bonds, thus fulfilling its obligations to this American company.

You are instructed to visit the Minister for Foreign Affairs immediately and give him copies of the two notes enclosed, requesting him at the same time to inform you whether the payment of the \$859,740, has been made. If this payment has not yet been made, you will ask the Minister for Foreign Affairs to be so good as to cause it to be paid at once.

¹ See *ante*, p. 419.

² Not printed.

You are further instructed to cable the Department the result of your interview.

I am [etc.]

For the Secretary of State:

WILLIAM PHILLIPS

File No. 611.226/17

The Ecuadorian Minister (Elizalde) to the Secretary of State

[Translation]

No. 28

WASHINGTON, December 12, 1918.

MR. SECRETARY OF STATE: I have the honor to refer to your kind note No. 43 of November 29 last, advising me that the War Trade Board will permit the importation of 14,000 tons of cacao now stored in Ecuador and that the Department of State hopes that my Government will in consequence pay in full the coupons [*cupones*] of the Guayaquil & Quito Railway Co., viz., the sum of \$859,740, as I had offered to you in due course.

I forwarded by cable to my Government your communication immediately on receiving it, and had not my telegram been delayed, I should have received the answer, which reached me yesterday, earlier.

My Government in that answer informs me that it adheres to its promise to pay the above-named sum out of the proceeds of the sale of the cacao as agreed, but that the difficulty it now has to contend with is to procure steamers on which to ship the cacao to England.

The importation of cacao into England being now allowed, there is advantage in shipping to that country where the demand will permit of a speedy and profitable sale of the cacao on better terms, certainly, than in New York, and my Government could in this way redeem at an earlier date its promise to pay the above-named sum.

I have been instructed to approach the British Embassy at the Capital and endeavor to have steamers sent to Guayaquil, but realizing the difficulties to be encountered, I bring the matter to your knowledge so as to find out whether your Government can help us in overcoming the obstacles that now stand in the way of our shipping the cacao and immediately fulfilling our offer.

I avail [etc.]

R. H. ELIZALDE

File No. 422.11G93/991

The Minister in Ecuador (Hartman) to the Secretary of State

[Telegram]

QUITO, December 18, 1918, 5 p. m.

The Minister for Foreign Affairs informed me to-day that the Minister of Finance unofficially informed him that on December 31, all money deposited interest Guayaquil & Quito Railway bonds will be placed to order Council of Foreign Bondholders.

HARTMAN

File No. 422.11G93/998

The Acting Secretary of State to the Ecuadoran Minister (Elizalde)

WASHINGTON, December 26, 1918.

SIR: I have the honor to acknowledge receipt of your communication of December 12, stating that your Government has informed you that it adheres to its promise to pay the sum of \$859,740, in payment of the coupons of the Guayaquil & Quito Railway Co., out of the proceeds of the sale of 14,000 tons of cocoa, which the War Trade Board will now permit to be exported to the United States from Ecuador. Your note continues that the difficulty your Government now has to contend with is the procuring of steamers on which to ship the cocoa.

The Department has received with much pleasure your renewed assurance that the sum of \$859,740 will be paid on the railway bonds, and it is glad to inform you that it has received information to the effect that of the 14,000 tons of cocoa mentioned, 4,000 tons have already been shipped to New York, and 80 per cent of the value paid. One thousand bags, or approximately 875 tons, have also been shipped to London by the Leland Line, and 2,500 tons have been purchased and paid for by Frederic Huth & Co. of London. It will, therefore, be seen that of the total of 14,000 tons, 10,875 tons have already been sold or shipment arranged for, leaving only a balance of 3,125 tons on hand, the shipment of which can probably be arranged at an early date.

Inasmuch as the Department has reason to believe in the accuracy of the above information, it hopes to be informed by you in the near future that the larger part of the above-mentioned sum of \$859,740 has been used to pay the coupons of the railway bonds.

Accept [etc.]

For the Acting Secretary of State:

WILLIAM PHILLIPS

FRANCE

AGREEMENT BETWEEN THE UNITED STATES AND FRANCE EXTENDING THE DURATION OF THE ARBITRATION CONVENTION OF FEBRUARY 10, 1908¹

File No. 711.5112/64a

The Secretary of State to the French Ambassador (Jusserand)

WASHINGTON, February 13, 1918.

MY DEAR MR. AMBASSADOR: I enclose herewith a draft² of an agreement extending indefinitely the arbitration convention of February 10, 1908, between the United States and France.

If you find the draft acceptable and will kindly furnish me with the French equivalent of the English text, I shall be glad to have the agreement at once prepared for signature and to fix the time for its signature.

I am [etc.]

ROBERT LANSING

File No. 711.5112/63a

The Secretary of State to the French Ambassador (Jusserand)

WASHINGTON, February 21, 1918.

MY DEAR MR. AMBASSADOR: It having been finally determined to extend the arbitration convention of February 10, 1908, for a further period of five years instead of indefinitely, I beg to enclose herewith a new draft² in English of the proposed agreement and to request that if you find it satisfactory you will kindly supply me with the French equivalent.

I am [etc.]

ROBERT LANSING

Treaty Series, No. 631

Agreement signed at Washington, February 27, 1918; ratification advised by the Senate, March 26, 1918; ratified by the President, April 8, 1918; ratified by France, April 14, 1918; ratifications exchanged at Washington, May 15, 1918; proclaimed, May 16, 1918

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

Whereas an Agreement between the United States of America and the French Republic extending, for another period of five years,

¹ For the text of the convention see *Foreign Relations*, 1908, p. 331.

² Draft not printed.

the duration of the Arbitration Convention concluded between them on February 10, 1908, was concluded and signed by their respective Plenipotentiaries at Washington on the twenty-seventh day of February, one thousand nine hundred and eighteen, the original of which Agreement, being in the English and French languages, is word for word as follows:

Agreement extending the duration of the Arbitration Convention of February 10, 1908, between the United States and the French Republic.

The Government of the United States of America and the Government of the French Republic, desiring to extend for another five years the period during which the arbitration convention concluded between them on February 10, 1908, and extended by the agreement concluded between the two Governments on February 13, 1913,¹ shall remain in force, have authorized the undersigned, to wit: Robert Lansing, Secretary of State of the United States, and J. J. Jusserand, Ambassador of the French Republic to the United States, to conclude the following agreement:

ARTICLE I

The Convention of Arbitration of February 10, 1908, between the Government of the United States of America and the Government of the French Republic, the duration of which by Article III thereof was fixed at a period of five years from the date of the exchange of ratifications, which period, by the agreement of February 13, 1913, between the two Governments was extended for five years from February 27, 1913, is hereby extended and continued in force for the further period of five years from February 27, 1918.

ARTICLE II

The present agreement shall be ratified by the President of the United States of America, by and with the advice and consent of the Senate thereof, and by the President of the French Republic, in accordance with the Constitutional laws of France, and it shall become effective upon the date of the exchange of ratifications, which shall take place at Washington as soon as possible.

Done in duplicate in the English and French languages at Washington, this 27th day of February, one thousand nine hundred and eighteen.

[SEAL]
[SEAL]

ROBERT LANSING
JUSSERAND

And whereas the said Agreement has been duly ratified on both parts, and the ratifications of the two governments were exchanged in the City of Washington, on the fifteenth day May, one thousand nine hundred and eighteen;

Now, therefore, be it known that I, Woodrow Wilson, President of the United States of America, have caused the said Agreement to be made public, to the end that the same and every article and clause

¹ *Foreign Relations, 1913*, p. 528.

thereof may be observed and fulfilled by the United States and the citizens thereof.

In testimony whereof, I have hereunto set my hand and caused the seal of the United States to be affixed.

Done at the City of Washington this sixteenth day of May in the year of our Lord one thousand nine hundred and [SEAL] eighteen, and of the Independence of the United States of America the one hundred and forty-second.

WOODROW WILSON

By the President:

ROBERT LANSING,
Secretary of State

GREAT BRITAIN

AGREEMENT BETWEEN THE UNITED STATES AND GREAT BRITAIN EXTENDING THE DURATION OF THE ARBITRATION CONVENTION OF APRIL 4, 1908¹

Treaty Series, No. 635

Agreement signed at Washington, June 3, 1918; ratification advised by the Senate, June 24, 1918; ratified by the President, September 20, 1918; ratified by Great Britain, July 15, 1918; ratifications exchanged at Washington, September 24, 1918; proclaimed, September 30, 1918

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

Whereas an Agreement between the United States of America and the United Kingdom of Great Britain and Ireland extending for another five years the period during which the Arbitration Convention concluded between them on April 4, 1908, shall remain in force, was concluded and signed by their respective Plenipotentiaries at Washington on the third day of June one thousand nine hundred and eighteen, the original of which Agreement is word for word as follows:

The President of the United States of America and His Majesty the King of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas, Emperor of India, being desirous of extending for another five years the period during which the Arbitration Convention concluded between them on April 4, 1908, extended by the agreement concluded between the two Governments on May 31, 1913, shall remain in force, have authorized the undersigned, to wit: Robert Lansing, Secretary of State of the United States and The Earl of Reading, His Britannic Majesty's Ambassador Extraordinary and Plenipotentiary on Special Mission to the United States, to conclude the following Articles:

ARTICLE I

The Convention of Arbitration of April 4, 1908, between the Government of the United States of America and the Government of His Majesty the King of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas, Emperor of India, the duration of which by Article IV thereof was fixed at a period of five years from the date of the exchange of ratifications of

¹ *Foreign Relations*, 1908, p. 382.

the said Convention on June 4, 1908, which period by the agreement of May 31, 1913, between the two Governments, was extended for five years from June 4, 1913, is hereby extended and continued in force for the further period of five years from June 4, 1918.

ARTICLE II

The present Agreement shall be ratified by the President of the United States of America, by and with the advice and consent of the Senate thereof, and by His Britannic Majesty, and it shall become effective upon the date of the exchange of ratifications which shall take place at Washington as soon as possible.

Done in duplicate, this third day of June, one thousand nine hundred and eighteen.

[SEAL]
[SEAL]

ROBERT LANSING
READING

And whereas the said Agreement has been duly ratified on both parts, and the ratifications of the two governments were exchanged in the City of Washington, on the twenty-fourth day of September, one thousand nine hundred and eighteen;

Now, therefore, be it known that I, Woodrow Wilson, President of the United States of America, have caused the said Agreement to be made public, to the end that the same and every article and clause thereof may be observed and fulfilled with good faith by the United States and the citizens thereof.

In testimony whereof, I have hereunto set my hand and caused the seal of the United States to be affixed.

Done in the District of Columbia this thirtieth day of September
in the year of our Lord one thousand nine hundred and
[SEAL] eighteen, and of the Independence of the United States
of America the one hundred and forty-third.

WOODROW WILSON

By the President:

ROBERT LANSING

Secretary of State

CONFERENCE BETWEEN THE UNITED STATES AND CANADA FOR THE CONSIDERATION OF PENDING QUESTIONS CONCERNING THE FISHERIES ON BOTH THE ATLANTIC AND PACIFIC COASTS

File No. 711.428/438

The Secretary of Commerce (Redfield) to the Secretary of State

WASHINGTON, June 21, 1917.

MY DEAR MR. SECRETARY: I beg to quote in full communication from the Commissioner of Fisheries to me under date of the 18th instant:

The international fishery relations of the United States are in a generally satisfactory condition. There are, however, several outstanding questions that have arisen between the United States and Canada, and the early consideration of these questions, and others that may come up, appears to be desirable

at the hands of conferees representing the two Governments. I therefore respectfully suggest that, if entirely agreeable to you, steps be taken to have a conference called, preferably in Washington.

You will recall the conferences with the British Ambassador and the Ministers of the Canadian Government on certain phases of fisheries problems having to do with certain orders in council that bore heavily upon the fishing interests of our Northwest. These matters are still pending adjustment. A tentative suggestion has been made by the British Ambassador and the Canadian officials that the conference suggested by the Commissioner of Fisheries would be agreeable to them, and that they would be glad to take up the whole subject on a continental basis, considering the interests of both countries both east and west and, so far as may be practicable, in the spirit of mutual relations. I beg, therefore, to request that if you approve, you signify to the proper British authorities that a conference on the general subject of fisheries be held during the present summer.

If this meets with your approval, I offer the further suggestion that the Department of Commerce should be represented by at least two persons, and I would suggest the Assistant Secretary of the Department, Hon. Edwin F. Sweet, and the Commissioner of Fisheries, Mr. Hugh M. Smith, as representatives. I have given assurances to the Senators from the State of Washington that the representatives of the Pacific fishing interests would be given a full opportunity to be heard, and I assume that the same is true of the Atlantic fishing interests. I should be glad to learn your wishes in the matter, remaining,

Yours very truly,

WILLIAM C. REDFIELD

The Counselor for the Department of State (Polk) to the Secretary of Commerce (Redfield)

WASHINGTON, July 13, 1917.

MY DEAR MR. SECRETARY: The Secretary of State received your letter of June 21, quoting a communication from the Commissioner of Fisheries in regard to the desirability of having a conference called for the consideration of fishery questions pending between the United States and Canada. You requested that, if it seemed advisable to Mr. Lansing, he signify to the appropriate British authorities that it would be agreeable to this Government to hold a conference on the general subject of fisheries, during the present summer.

I am charged by the Secretary of State to say, in reply, that he desires to be informed more fully as to whether it is proposed at this conference to do more than gather data, exchange views, and make recommendations in regard to the fishery questions pending between the two countries, and their satisfactory solution. If this is all that it is intended to do, there may be no objection to such a conference during the summer; but if it is proposed to negotiate an agreement between the two Governments, it will be necessary to have a representative of the Department of State attend the conference, which could hardly be arranged for at the present time.

I am [etc.]

FRANK L. POLK.

File No. 711.428/446

The Secretary of Commerce (Redfield) to the Secretary of State

WASHINGTON, July 16, 1917.

MY DEAR MR. SECRETARY: I trust I may be pardoned in expressing surprise at the contents of your letter of 13th instant in regard to the conference for the consideration of fisheries questions between the United States and Canada. The matter has been discussed for months and has been the subject of several communications between this Department and the Department of State. It has been the basis of preliminary conversations with the British Ambassador and with the Canadian authorities in person. It seems very late in the day to raise the question as to the need of the conference. The Secretary of State in person, together with the writer, has taken part in a discussion with the British Ambassador on some of the questions involved, and I think is personally familiar with them. It is well known that legislation has been introduced in the last two sessions of Congress involving considerable friction which it is hoped the conference may remove. I have already nominated to you the two representatives of the Department of Commerce to sit upon that conference.

It is the desire of this Department that an agreement should be negotiated between the two Governments taking advantage of the expressed willingness of Canada and of the British Ambassador to this effect and of the present state of harmonious cooperation between the two countries. It is, of course, impossible for any such conference to take place without a representative of the Department of State, and I have already orally stated to Mr. Polk that I think the Department of State should have two or more representatives as well as the Department of Commerce. I am not prepared to suggest an exact date, but inasmuch as the matter started in the spring or earlier, it did not seem unreasonable to think it might get into being by the summer. My chief thought is that we ought not to permit the next session of Congress to open without there being some definite, actual, practical steps being taken to remove the existing causes of friction. Otherwise, there is certain to be legislation introduced of a character which may cause material difficulty. Nothing has been done to modify the orders in council relating to Prince Rupert, which are adversely affecting our fisheries there. Inasmuch as the British authorities are ready and willing to go ahead and have so expressed themselves repeatedly, there would seem to be no difficulty in getting the matter started, unless there are reasons with which this Department is not familiar.

Yours very truly,

WILLIAM C. REDFIELD

File No. 711.428/453

The Secretary of Commerce (Redfield) to the Secretary of State

WASHINGTON, October 4, 1917.

MY DEAR MR. SECRETARY: May I respectfully ask your attention to my letters to you of June 21 and July 16, both upon the subject of what I have understood, perhaps mistakenly, to be a definite

understanding between our Government and the Canadian Government that a conference on the international fisheries relations of the United States would take place at an early date.

Speaking from the standpoint of the officer charged with the administration of the Bureau of Fisheries, it seems to me of urgent importance that this conference take place, and that the present time of *rapprochement* be utilized to settle a number of outstanding problems. Failing this, I fear an attempt at legislation at the next session which may cause international friction at a time when it should be avoided.

Yours very truly,

WILLIAM C. REDFIELD

The Secretary of State to the Secretary of Commerce (Redfield)

WASHINGTON, October 8, 1917.

MY DEAR MR. SECRETARY: I have received your letter of October 4, 1917, in which, referring to your letters of June 21 and July 16, 1917, you state that in your opinion it is important that the present time of *rapprochement* should be utilized to settle a number of questions regarding the Atlantic and Pacific fisheries, now pending between the United States and Great Britain, and urge that arrangements be made for an early conference regarding these matters between representatives of this Government and of the Government of Canada.

In reply I beg to inform you that I recently took occasion to speak about this matter to the British Ambassador, who stated that he would at once take the matter up with his Government with a view to arranging for a conference of this character. I also spoke to the President about it and he expressed his approval of such a conference.

The British Ambassador is now out of the city, but I shall not fail to advise you as soon as we shall have arrived at a definite understanding regarding the matter.

Sincerely yours,

ROBERT LANSING

File No. 711.428/455

The British Ambassador (Spring Rice) to the Secretary of State

No. 370

WASHINGTON, October 8, 1917.

MY DEAR MR. SECRETARY: With reference to previous correspondence regarding the settlement of all fisheries questions outstanding between the United States and Canadian Governments, I beg to inform you that the Canadian authorities were informed that your Government contemplated proposing shortly a joint commission of enquiry on which Mr. Smith and the Assistant Secretary of Commerce would represent them. I am now informed that the appointment of the proposed commissioners would be agreeable to the Canadian Government who are prepared on their part to recommend the appointment of two Canadian commissioners as soon as the United States commissioners have been appointed.

Believe me [etc.]

CECIL SPRING RICE

File No. 711.428/453

The Secretary of State to the Secretary of Commerce (Redfield)

WASHINGTON, October 19, 1917.

MY DEAR MR. SECRETARY: Referring to my letter of October 8, in which I informed you of my interview with the British Ambassador with reference to the proposed conference between representatives of this Government and the Government of Canada for the consideration of pending questions concerning the fisheries on both the Atlantic and Pacific coasts, I send you herewith for your information a copy of a note of the 8th instant from the Ambassador in which he states that it is the understanding of the Canadian Government that this Government contemplates the appointment of the Assistant Secretary of your Department, and Mr. Smith (presumably Dr. Hugh M. Smith) as the representatives of the United States at this conference, and that the Canadian Government are prepared to recommend the appointment of their commissioners as soon as the representatives of this Government shall have been appointed. It appears from this communication that the Canadian Government are favorably disposed toward a conference of this character, and I would appreciate your confirmation of the British Ambassador's statement as to the persons who will be designated as the representatives of the United States.

I presume the questions as to the time and place for holding the conference may properly be left for determination by the representatives of the two Governments after they have been officially commissioned.

I am of the opinion that upon advising the British Ambassador of the names of the representatives of this Government, we should make it clear that it is the understanding of this Government that the representatives of the United States and Canada are to be empowered merely to reach, if possible, a mutually satisfactory understanding as to the pending questions concerning the fisheries on both the Atlantic and Pacific coasts, and to report the result of their deliberations to their Governments as a basis for the subsequent negotiation of a formal agreement between the two Governments. My idea is that the proposed conference should thrash out the questions at issue and prepare the way for diplomatic negotiations leading to the consummation of a formal agreement.

Please advise me whether or not you concur in this view.

Sincerely yours,

ROBERT LANSING

File No. 711.428/456

The Secretary of Commerce (Redfield) to the Secretary of State

[Extract]

WASHINGTON, October 26, 1917.

MY DEAR MR. SECRETARY: . . . May I take this occasion also to acknowledge receipt of your communication of October 19 and to say that, as you have already been advised, it is the intention of this Department to appoint Dr. H. M. Smith, the Commissioner of Fish-

eries, and Hon. Edwin F. Sweet, the Assistant Secretary of Commerce, representatives on behalf of this Department on a joint commission of inquiry for the consideration of pending questions concerning the fisheries of both the Atlantic and Pacific coasts? I note that the appointment of the proposed commissioners is satisfactory to the British Embassy as indicated by the communication to you from the British Ambassador of the 8th instant. I shall be pleased to formally appoint the above-named gentlemen as commissioners on receipt of your advice that you are ready to have this done and as to the form in which it should be done. Will you kindly convey the matter to me at your early convenience?

I concur with you in thinking that the questions as to the time and place of the conference may be left to the representatives of the two Governments.

I concur also that it should be the understanding that the representatives of the two Governments are to be empowered to reach a mutually satisfactory understanding as to the pending fisheries questions and to report the result of their deliberations as the basis of a formal agreement.

Awaiting the favor of your further advices in the matter looking to the immediate appointment in due form of the American commissioners, I am [etc.]

WILLIAM C. REDFIELD

The Secretary of State to the British Ambassador (Spring Rice)

No. 1889

WASHINGTON, November 13, 1917.

EXCELLENCY: By your note No. 370 of the 8th ultimo you were so good as to inform me, with reference to the previous correspondence on the subject, that the Canadian Government are agreeable to a conference between representatives of this Government and representatives of the Government of Canada for the consideration of pending questions concerning the fisheries on both the Atlantic and Pacific coasts, and that the Canadian Government are prepared to recommend the appointment of two Canadian representatives as soon as the United States representatives have been appointed.

I have now the honor to inform you that Dr. Hugh M. Smith, the Commissioner of Fisheries, and Mr. Edwin F. Sweet, the Assistant Secretary of Commerce, have been designated as the representatives of the United States at the proposed conference. I shall be grateful if you will kindly advise me, as early as may be possible, of the names of the representatives of Canada. I am of the opinion that the question as to the time and place for holding the conference may be safely left for determination by the representatives of the two Governments.

In announcing to you the names of the representatives of this Government I deem it proper to state, in order that there may be no misunderstanding, that it is the understanding of this Government that the representatives of the United States and the representatives of Canada are to be empowered merely to reach, if possible, a mutually satisfactory understanding as to the pending questions concerning the fisheries on both the Atlantic and Pacific coasts, and to report the result of their deliberations to their Governments as a

basis for the subsequent negotiation of a formal agreement between them.

I have [etc.]

ROBERT LANSING

File No. 711.428/458

The British Ambassador (Spring Rice) to the Secretary of State

No. 519

WASHINGTON, November 17, 1917.

SIR: I have the honour to acknowledge the receipt of your note No. 1889 of November 13, the substance of which I have communicated to the Canadian Government.

With reference to the last paragraph thereof, I have the honour to inform you that it is my understanding also that the representatives of the two countries are only to be empowered to come to a mutually satisfactory understanding as to all pending questions, and to report the result of their deliberations to their respective Governments as a basis for the subsequent negotiation of a formal agreement.

I have [etc.]

CECIL SPRING RICE

File No. 711.428/45a

The Secretary of State to the British Ambassador (Spring Rice)

No. 1906

WASHINGTON, November 21, 1917.

EXCELLENCY: Referring to my note No. 1889 of the 13th instant, advising you of the selection of Dr. Hugh M. Smith, the Commissioner of Fisheries, and Mr. Edwin F. Sweet, the Assistant Secretary of Commerce, as representatives of the United States in the proposed conference to consider pending questions concerning the fisheries on both the Atlantic and Pacific coasts, I have now the honor to inform you that, in deference to the wish of the Canadian Government that each Government should be represented in the conference by three commissioners, as stated in your personal letter to me of October 30,¹ the Honorable William C. Redfield, Secretary of Commerce, will participate in the conference as a representative of the United States in addition to Doctor Smith and Mr. Sweet.

I have [etc.]

ROBERT LANSING

File No. 711.428/460

The British Ambassador (Spring Rice) to the Secretary of State

No. 625

WASHINGTON, December 19, 1917.

SIR: With reference to your note No. 1906 of November 21, and to previous correspondence in regard to the proposed joint conference between the United States and Canada to consider proposals for a settlement of outstanding fishery questions, I have the honour to inform you that the Canadian Government have notified me of the appointment as Canadian commissioners of the Honourable John Douglas Hazen, Chief Justice of New Brunswick, George J.

¹Not printed.

Desbarats, Esquire, C. M. G., C. E., Deputy Minister of the Naval Service, and William A. Found, Esquire, Superintendent of Fisheries.

I have [etc.]

CECIL SPRING RICE

File Nos. 711.428/488 and 711.428/640

Report of the American-Canadian Fisheries Conference, 1918

GENERAL CONSIDERATIONS

The commissioners constituting the American-Canadian Fisheries Conference were appointed for the purpose of considering the outstanding questions involving the fisheries of the United States and Canada and of reaching a basis for the settlement of those questions if possible. The principal matter in dispute at the time of the calling of the conference was the privileges accorded fishing vessels of each country in the ports of the other; but other subjects of great importance, particularly the rehabilitation and maintenance of the sockeye salmon fishery of the Fraser River system, were also brought to our attention by the respective Governments.

The commissioners first met in the city of Washington on January 16, 1918, and thereafter held conferences from day to day until January 25. The different pertinent matters were brought up and considered, and substantial progress was made, but it was found that it would be desirable, before conclusions could be reached, to hold public hearings on both coasts of the United States and Canada. Accordingly hearings were held as follows:

Boston, Mass., January 31 and February 1.

Gloucester, Mass., February 2.

St. John, New Brunswick, February 5 and 6.

Seattle, Wash., April 24 and 25, May 9 and 10.

Prince Rupert, British Columbia, April 30 and May 1.

Ketchikan, Alaska, May 2.

Vancouver, British Columbia, May 7.

New Westminster, British Columbia, May 8.

A copy of the evidence taken at these hearings is appended.¹

On the conclusion of the hearings at Seattle, the commissioners proceeded to Ottawa, where conferences were held on May 20, 21, and 22, and conclusions were reached in principle, but as there had to be worked out certain details which could not then be completed, adjournment was taken subject to the call of the chairman. The commissioners reconvened on September 4, at Hotel Champlain, Bluff Point-on-Lake Champlain, Clinton County, N. Y., where the concluding meeting was held, a final report was adopted, and the work was brought to a close.

The minutes of all the sessions are submitted herewith.

From the outset the deliberations of the conference were characterized by candor, frankness, and harmony of purpose. The term

¹ *American-Canadian Fisheries Conference: Hearings at Washington, D. C., January 21-25; Boston, Mass., January 31, February 1; Gloucester, Mass., February 2; St. John, N. B., February 5-6, 1918* (Washington, Government Printing Office, 1918).

"open diplomacy" fittingly describes the methods pursued throughout. The basic thought that animated the commissioners was not only to remove the causes of past controversy and irritation over fishery questions, but to make possible the supplying of the largest quantities of food fish to the largest number of people of the two countries both during the existence of the war and during the momentous *post-bellum* years when the world's food problem may conceivably reach its most critical period. It was felt by the commissioners that objections, if any, by local fishermen or even entire communities should not be allowed to stand in the way of measures which are obviously in the best interests of the people of both countries as a whole.

No effort was made by either section of the conference to keep back any information, no matter what its bearing might seem to be; on the contrary, there were at all times a willingness and a desire that the fullest details should be available to both sections on all phases of each question.

It was found, as the inquiries proceeded, that some of the outstanding differences were based on misconceptions or lack of information as to the other side of the case. In fact, in looking back over the history of some of the questions at issue, it is easy to understand how failure to appreciate or comprehend the viewpoint and aims of the other side, and the lack of sufficiently close personal contact, may have been the reason for the original difficulties and the cause of their perpetuation.

It was because of these considerations that it was decided to hold public hearings in all the localities most directly affected or interested. The truth or otherwise of certain contentions and claims could be best established by investigations on the spot at which the commissioners from both sides could be present and take an equal part. It was also felt that it would be desirable to invite the fishery interests in Canada to be represented at the hearings in the United States, and *vice versa*. It was further decided that if any persons in attendance at the hearings felt that information had not been brought out sufficiently to elucidate any particular points, such persons should be given an opportunity to ask the necessary questions.

The wisdom of this course was disclosed on various occasions, as, when the actual facts were clearly established, local opposition to proposed means of settlement gave place to local support.

The different questions that were submitted and considered by the conference will now be dealt with in detail. These are as follows:

- Privileges to the fishing vessels of either country in the ports of the other;
- Rehabilitation and protection of the sockeye salmon of the Fraser River system;
- Protection of the Pacific halibut fishery;
- Fishing by United States lobster well-smacks off Canadian coast;
- Protection of the fisheries of Lake Champlain;
- Requirements imposed on Canadian fishing vessels passing through territorial waters of Alaska;
- Protection of the sturgeon fisheries;
- Protection of whales.

PRIVILEGES TO THE FISHING VESSELS OF EITHER COUNTRY IN THE PORTS OF THE OTHER

This matter has been an outstanding source of international complication and irritation for over one hundred years, and, at times, even threatened the peaceful relations of Great Britain and the United States. While Article 1 of the treaty of October 20, 1818, measures the liberties of the United States fishing vessels in Canadian waters, the origin of the question antedates the American Revolutionary War, when Great Britain and France were contending for supremacy on this continent. Indeed, nearly all the conflicts that took place between the then British colonists of New England and the French colonists of what are now the Canadian Provinces, during the 150 years or more before the battle on the Plains of Abraham in 1759, either were directly due to or included disputes connected with the fisheries.

The New England colonists exploited and developed the fisheries of the northeastern coasts of North America, and, largely unaided, bore the burden of maintaining and defending their interests against French aggression during the wars between the mother countries.

It is, therefore, not surprising to find that when the treaty of peace of 1783, following the Revolutionary War, was being negotiated, the United States representatives insisted that they had equal rights with Great Britain in these fisheries, and that they should therefore be allowed to continue to exercise those rights. The third article of this treaty reads as follows:

It is agreed, that the People of the United States shall continue to enjoy unmolested the Right to take Fish of every Kind on the Grand Bank, and on all the other Banks of New-foundland, also in the Gulph of Saint Lawrence and at all other Places in the Sea; where the Inhabitants of both Countries used at any time heretofore to fish. And also that the Inhabitants of the United States shall have Liberty to take Fish of every Kind on such Part of the Coast of New-foundland as British Fishermen shall use, (but not to dry or cure the same on that Island) and also on the Coasts Bays & Creeks of all other of his Britannic Majesty's Dominions in America, and that the American Fishermen shall have Liberty to dry and cure Fish in any of the unsettled Bays, Harbours and Creeks of Nova Scotia, Magdalen Islands and Labrador, so long as the same shall remain unsettled, but so soon as the same or either of them shall be settled, it shall not be lawful for the said Fishermen to dry or cure Fish at such Settlement, without a previous Agreement for that Purpose with the Inhabitants, Proprietors or Possessors of the Ground.

This article contained two distinct stipulations, the one recognizing the "right" of the United States to fish on the high seas, which was a right that was then being recognized as appertaining to all nations, and the other granting fishing and on-shore "liberty" within British jurisdiction.

These in-shore and on-shore "liberties" soon began to prove a source of friction between the local colonists of the British provinces and the visiting fishermen from the United States. The residents were, from time to time, obstructed in their lawful fishing operations by their visiting competitors, and they were frequently prevented from fishing on certain portions of their coasts by finding the harbors and creeks occupied by these visitors.

When the War of 1812 broke out, Great Britain contended that these liberties were terminated by it, but the United States maintained that they were not affected by the war, and as the two nations

could not agree on this point, the treaty of Ghent, 1814, which put an end to the hostilities, is silent on the fisheries question.

Great Britain, however, insisted on her contention and maintained that in the absence of any provision regarding the fisheries in the new treaty, United States fishermen were placed in the same position in British waters as those from other nations; but, while maintaining this attitude, she expressed willingness to have United States fishermen allowed reasonable privileges and to enter into negotiations to that end. This course was followed, and the question was dealt with by Article 1 of the treaty of 1818, which article reads as follows:

Whereas differences have arisen respecting the liberty claimed by the United States for the inhabitants thereof, to take, dry, and cure fish on certain coasts, bays, harbours, and creeks of His Britannic Majesty's dominions in America, it is agreed between the high contracting parties, that the inhabitants of the said United States shall have forever, in common with the subjects of His Britannic Majesty, the liberty to take fish of every kind on that part of the southern coast of Newfoundland which extends from Cape Ray to the Rameau Islands, on the western and northern coast of Newfoundland, from the said Cape Ray to the Quirpon Islands on the shores of the Magdalen Islands, and also on the coasts, bays, harbours, and creeks from Mount Joly on the southern coast of Labrador, to and through the Straights of Belleisle and thence northwardly indefinitely along the coast, without prejudice, however, to any of the exclusive rights of the Hudson Bay Company: And that the American fishermen shall also have liberty forever, to dry and cure fish in any of the unsettled bays, harbours, and creeks of the southern part of the coast of Newfoundland hereabove described, and of the coast of Labrador; but so soon as the same, or any portion thereof, shall be settled, it shall not be lawful for the said fishermen to dry or cure fish at such portion so settled, without previous agreement for such purpose with the inhabitants, proprietors, or possessors of the ground. And the United States hereby renounce forever, any liberty heretofore enjoyed or claimed by the inhabitants thereof, to take, dry, or cure fish on, or within three marine miles of any of the coasts, bays, creeks, or harbours of His Britannic Majesty's dominions in America not included within the above-mentioned limits; Provided however, that the American fishermen shall be admitted to enter such bays or harbours for the purpose of shelter and of repairing damages therein, of purchasing wood, and of obtaining water, and for no other purpose whatever. But they shall be under such restrictions as may be necessary to prevent their taking, drying or curing fish therein, or in any other manner whatever abusing the privileges hereby reserved to them.

At the time it was thought that this treaty had at last put an end to the fishery disputes; but it soon transpired that the two countries placed different interpretations upon certain of its important provisions, while the growth of the mackerel fishery and the tendency of the mackerel to school in-shore at times, as well as the need for surface bait that was used in this fishery, made the British territorial waters of greater importance than was anticipated when the treaty was being negotiated.

While these questions of interpretations were set at rest from time to time by intervening treaties, they were not finally settled until 1910, when they formed the subject of an unusually important arbitration at The Hague.

The award of the arbitration court removed uncertainty as to the meaning of the article, but it did not meet the matter of the needs and difficulties of United States fishing vessels on the high seas off the British Provinces; and, as will be later shown, owing to restrictive navigation laws in the United States, Canadian fishing vessels were not able to reasonably avail themselves of the United States markets.

One of the main points long in dispute was as to the meaning of the word "bay" in the treaty. The United States contended that it meant a bay not more than 6 miles wide, or the usual 3-mile territorial limit from either headland, and that in any bay wider than 6 miles at its mouth United States fishermen might carry on their operations up to the 3 miles from a line drawn across the bay at the first point where it ceased to be more than 6 miles wide. Great Britain, on the other hand, contended that, in the absence of any limiting words, it meant a geographical bay, regardless of its width. Great Britain endeavored to enforce her view, and in 1843 the United States fishing vessel *Washington* was seized in the Bay of Fundy more than 3 miles from shore. The United States protested, but Great Britain would not change her attitude. Heated diplomatic discussion went on, and war was certainly imminent, but the good sense of both nations prevailed, and they decided to settle their difficulties amicably. Negotiations for a treaty were started. The Canadian fishermen were anxious to obtain free access to the United States markets; and, under the conditions then existing, access to Canadian ports and the privileges of fishing in Canadian territorial waters and of drying nets and curing fish on shore were of eminent value to the United States fishermen. These negotiations resulted in the reciprocity treaty of 1854, under which, among other things, fish and fish products of either country were admitted into the other country free of duty, and United States fishermen were allowed to fish in Canadian territorial waters of the Atlantic coast, excepting in rivers and mouths of rivers and for shellfish. Similar privileges were accorded Canadian fishermen on the Atlantic coast of the United States north of the thirty-sixth parallel of north latitude, but these privileges were never used.

Owing in part to the conditions that arose between the two countries during the American Civil War, this treaty was terminated in 1866 at the instance of the United States.

Doubtless in the hope of reaching a new arrangement in the matter, the British colonies continued for a time the privileges to United States fishermen by issuing licenses to their fishing vessels on payment of a fee of 50 cents per registered ton. This fee was raised to \$1 per ton in 1867, and the following year to \$2 per ton, but as the number of vessels taking out such licenses fell from 365 in 1866 to 35 in 1869, the licenses were then withdrawn, and in 1870 the treaty of 1818 again became effective. A Canadian fisheries protective force was established, and seizures of and interferences with United States fishing vessels ensued, with the consequent international friction and irritation; but the two nations again got together and negotiated the treaty of Washington, of 1871, which became effective in 1873. It revived the fishery provisions under the reciprocity treaty of 1854, but it also provided for the appointment of a commission to determine the amount of compensation that should be paid by the United States to Great Britain as the difference in the value of the fishery concessions granted United States fishermen in Canadian waters over those granted Canadian fishermen in United States waters. This commission sat at Halifax in 1877, and its findings have since been known as the "Halifax Award." The amount of the award was \$5,500,000, of which sum \$1,000,000 was apportioned to Newfoundland.

This treaty was terminated in 1885, again at the instance of the United States Government, but negotiations looking to a new arrangement were set on foot, and Canada continued throughout the year 1885 to allow United States fishermen to enjoy the privileges conveyed to them by the lapsed treaty. No new arrangement was, however, reached, so that in 1886 Article 1 of the treaty of 1818 was again revived, and a Canadian fisheries protective fleet to enforce its provisions was put on. Seizures of and interferences with United States fishing vessels again followed, with the consequent serious international complications, but negotiations for a new treaty were again entered into, and plenipotentiaries were appointed by the two nations to arrange its terms. On February 15, 1888, they agreed to what has since been known as the "Unratified Treaty of 1888." This treaty contemplated no extra fishing privileges to the United States in Canadian territorial waters. It defined the limits of certain bays and provided that in all others over 10 miles wide the limit of exclusion of United States fishing vessels would be 3 miles from a line drawn across the bay at the first point where it ceased to be more than 10 miles wide. It further provided that if the United States admitted fish, fish products, and their containers free of duty, such articles from the United States would be admitted into Canada duty free, and United States fishing vessels would be granted, without fee, annual licenses authorizing them to purchase in Canadian ports all provisions and outfitts and also to tranship their catches and to ship crews.

It was out of this treaty that the so-called *modus vivendi* licenses grew. It was recognized by the treaty makers that the necessary action to make the treaty effective could not be taken by the different governments before the fishing season of that year came around, and to avoid the complications that would have followed the enforcement of the provisions of Article 1 of the treaty of 1818, the British plenipotentiaries offered, as a temporary arrangement to last not longer than two years, that United States fishing vessels on the payment of a fee of \$1.50 per registered ton should receive annual licenses conveying the privileges covered by the treaty. This treaty was ratified by Great Britain, Canada, and Newfoundland, but it failed to receive the approval of the United States Senate.

Canada, in the hope of reaching some satisfactory arrangement, obtained the authority of Parliament for the continuation of the licenses during 1890, and again during 1891; and in 1892 a Canadian statute was adopted giving the Governor in Council authority to renew the licenses from year to year. Under this authority such licenses have been issued each year since that time.

When these licenses were first authorized, sailing vessels only were used in the fisheries, and when vessels having auxiliary power began to be used they were not admitted by the Canadian Government as being eligible for such licenses on the ground that, as they would be able to use them to a greater extent than vessels driven by sails alone, it would, in practice, involve an extension of the privileges contemplated. As more and more United States fishing vessels have been installing auxiliary power from year to year, fewer and fewer of them have been eligible for licenses. In 1903, the year previous to the limitation of licenses to sailing vessels, 93 United States fishing

vessels took out *modus vivendi* licenses, while in 1917 the number fell to 45.

Another feature of the *modus vivendi* license system was that the licenses could be withdrawn altogether any year, merely by the Governor in Council failing to provide the necessary authority for issuing them.

On the other hand, under the United States navigation laws, Canadian fishing vessels visiting United States ports, could not be granted clearances to the high seas, but had to clear for a port in a foreign country, thus having to go around two sides of a triangle to reach the fishing grounds; and when the duty was removed from fish going into the United States, an interpretation was placed upon those navigation laws by which Canadian fishing vessels were not permitted to go from the fishing grounds to United States ports with their catches, but were required to ship them in by merchant vessels or by rail. Also there was developed by United States fishing vessels off the western coast of Nova Scotia a method of lobster fishing which caused great unrest among the local fishermen. With the object of conserving the lobster supply, Canada restricts fishing to a portion of the year. As the live-lobster markets of the United States are supplied in a large measure from Canada, there is ordinarily an unusually good demand for lobsters in the United States when fishing is prohibited in Canada. To meet this demand certain United States firms fitted out well-smacks—vessels equipped with wells through which the sea water freely flows and in which lobsters can be carried alive for a considerable period—to engage in this fishery off the Nova Scotia coast during the closed time for lobster fishing, and when the local Canadian fishermen were not permitted to engage in it, either inside or outside territorial waters. These smacks used the adjacent Nova Scotia harbors as a base for this fishing on the plea that they were coming in nightly for shelter, which Canada urged was clearly at variance with the spirit and intention of the treaty of 1818. This fishing was nullifying, to an important degree, the object and effects of the Canadian close season, and it was causing so much agitation and irritation among the local fishermen that Canada was threatened with the necessity for abandoning altogether the protection to the fishery involved in the close season.

As early as 1912 Canada asked the United States Government to take such steps as might be necessary to stop these well-smacks from engaging in this fishery during the Canadian close season, but no action to that end was taken.

In 1914, following the removal of the United States duty on fresh and unmanufactured fish, the United States Government asked the Canadian Government, in view of the fact that Canada had in the past given United States fishing vessels freedom in Canadian waters and ports in return for free access to the United States markets, that the privileges covered by the *modus vivendi* licenses should be extended to all United States fishing vessels, no matter how they might be propelled, and that the fee thereon be reduced to a nominal sum. No fishing privileges were, however, asked for.

Owing to war and other conditions, the negotiations proceeded slowly, but the Canadian Government finally replied in 1916. It

pointed out that on account of the restrictions against Canadian fishing vessels in United States ports, the advantages of the modified United States tariff were largely nullified to them. It also called attention to the previous request for stopping lobster fishing by United States well-smacks off the coast of Nova Scotia during the Canadian close season on that coast.

In view of these conditions, Canada offered: (1) to make the *modus vivendi* licenses applicable to all United States fishing vessels, no matter how driven, and (2) to reduce the fee thereon to a nominal sum, conditionally upon (1) the United States Government permitting Canadian fishing vessels to take their catches direct to United States ports from the fishing grounds, to sell them there, and then to be given clearance back to the fishing grounds, and (2) United States well-smacks being prevented from engaging in lobster fishing just outside Canadian territorial waters during the close time for such fishing in the territorial waters opposite.

The United States Government at that time found itself unable to agree to these proposals, but considered that the advantages of its modified tariff should be sufficient to warrant the extension of licenses to motor-driven vessels, even if the license fee were not reduced.

Meantime, the problem of halibut fishery on the Pacific coast, which had been a cause for discussion and agitation for some years, became more acute.

A brief history of the Pacific halibut fishery as it affects the outstanding questions may be useful at this point.

The existing extensive halibut fishery had its inception in the New England States about 1887. The attention of certain persons there who were engaged in the Atlantic fisheries were drawn to the great abundance of halibut on the Pacific coast, and in that year they sent three fishing schooners out around Cape Horn to Washington to engage in the fishery from there. Apparently it was the intention that these vessels would, during a portion of the year, engage in the pelagic fur-seal fishery, which was then becoming prominent. During its first few years the fishery had a precarious existence, not on account of any scarcity of halibut but because of the difficulty of satisfactorily transferring the catch to the New England States markets, where at that time the only important demand existed.

In or about 1892 the transportation facilities were substantially improved by the Northern Pacific Railway, and the industry began to grow. The New England Fish Co. established a branch at Seattle, and, owing to the greater proximity to Vancouver of the fishing grounds, and to the fact that equally favorable transportation facilities were available over the Canadian Pacific Railway, it opened a branch at Vancouver in 1894. The company asked the Canadian Government for permission to use United States vessels in its fishing operations, in order that it might ship its catches to the United States markets, in bond, and thus escape the United States import duty, which was then one-half cent a pound. This privilege was refused, and until 1897 the company used Canadian fishing vessels, and paid the duty on such fish as it shipped into the United States. When the United States duty was increased to 1 cent a pound, the company again approached the Canadian Government and represented

that in view of this increased duty it would be necessary to discontinue business in Vancouver unless it were granted the privilege of using United States fishing vessels in its operations. There was a strong local objection to granting this concession, on the ground that local Canadian firms could not compete in the industry, but it was decided, in order to retain the business in Vancouver, to grant the privilege experimentally. The first concession, which was made by order in council dated November 8, 1897, read as follows:

That for the period of six months hereafter next ensuing, foreigners or foreign corporations bringing fresh fish in American bottoms to any port in British Columbia shall be permitted to land such fresh fish at such port, without payment of duties, and tranship the same in bond to any part of the United States of America, under such rules or regulations as the Minister of Customs may determine.

From the outset United States fishing vessels bringing their catch to a British Columbia port to ship in bond were permitted to purchase all supplies and outfits and to ship crews in such ports.

These privileges were continued from year to year thereafter by orders in council without any important modifications until 1915, when the Grand Trunk Pacific Railway began operating from Prince Rupert. In that year the regulation was extended so as to allow boats to sell their fish in bond as well as to ship in bond, the object being to enable the smaller boats that did not have selling connections in the East, or that did not produce in sufficient quantities to enable them to make shipments in carload lots, to avail themselves of the privileges. The concession for that year was in the following terms:

During the present calendar year (1915), foreigners or foreign corporations bringing fresh fish in vessels registered in the United States of America to any port in British Columbia shall be permitted to land such fresh fish at such port without payment of duties and tranship the same in bond to any port in the United States, or to sell such fish in bond to such local dealer or dealers as may be properly and duly licensed therefor, under the regulations and conditions hereinafter mentioned, which dealer or dealers shall export the same, in compliance with the bonding requirements (without the right, however, in either instance, to sell in Canada for consumption therein, or otherwise, except in bond, any of such fresh fish so landed); and such foreigners and foreign corporations bringing fresh fish in vessels registered in the United States of America to any port in British Columbia, shall be permitted to purchase supplies, and ship crews for such vessels, at any port in the said Province of British Columbia, the whole under such regulations and conditions as the Minister of Customs may determine.

The following year the only modification made was to authorize foreign vessels, before bringing fresh fish to a British Columbia port, to purchase bait on giving an undertaking that the catches made with such bait would be landed at a Canadian port. This proviso read as follows:

Provided also, That such foreigners and foreign corporations, before bringing fresh fish to a port in British Columbia, may be permitted to purchase bait at any port in the said Province of British Columbia, upon an undertaking, to the satisfaction of the Minister of Customs, that catches of fish made with any baiting so supplied shall be landed at a port on the mainland of British Columbia and be thence forwarded in bond to a port in the United States, the whole under such regulations and conditions as the Minister of Customs may determine.

When the fishery for halibut began, these fish were in great abundance, and at no season of the year did the vessels find it necessary to proceed farther north than Hecate Strait; but, owing to the intensive fishing that was carried on to meet the ever-increasing demand, the southern waters soon began to show signs of depletion, and year by year vessels found it necessary to proceed farther and farther north, until in recent years most of the halibut have been taken off the Alaskan coast. This aspect of the matter is more fully dealt with in another portion of this report, dealing with the protection of the fishery.

It naturally followed that when the Grand Trunk Pacific Railway was completed and began to afford equally favorable transportation facilities to the eastern markets as the competing transcontinental railways farther south, Prince Rupert proved a very desirable port for fishing vessels to dispose of their catches. It is 600 miles or more nearer the fishing grounds than Seattle. While Ketchikan, Alaska, is still nearer to the fishing grounds, it is not a railway port.

Consequently, most of the United States fishing vessels that were not owned by companies having their headquarters in Seattle and Vancouver soon began to largely resort to Prince Rupert to sell their catches. Several of the larger United States producing companies on the coast found it in their interest to open branches at Prince Rupert, and considerable alarm arose in Washington and Alaska lest the business was going to be lost to them and transferred to Prince Rupert. The belief was entertained and publicly expressed that the Canadian regulations were designed to that end; that proper facilities were not open at Prince Rupert to United States branch establishments to enable them to equally compete with Canadian firms; that the Grand Trunk Pacific Railway and the cold-storage plant of the Canadian Fish & Cold Storage Co. at Prince Rupert were assisted by the Canadian Government with this in view; that the railway did not afford transportation facilities between Ketchikan and Prince Rupert; and that as there was no duty on halibut going into the United States and there was such duty on halibut entering Canada, if caught by United States fishermen, Canadian dealers operating in British Columbia were at a great advantage over the United States dealers operating there or elsewhere on the Pacific coast. It was also claimed that the situation was further rendered distinctly unfavorable to United States fishery interests by a rebate of transportation charges over Canadian railways on shipments into the United States of halibut caught by Canadian vessels, although, as a matter of fact, no rebate ever applied to any shipments of fish destined for or consigned to United States markets. The agitation became so strong that in 1916 a bill was introduced into Congress in the following terms:

That from and after ninety days from the passage of this act no fresh or frozen halibut or salmon from the north Pacific Ocean or its tributary waters shall be admitted into the United States through any foreign country, except when the same shall be in bond from an American port.

This bill was strongly supported at the time but failed to receive the necessary congressional sanction and has not since been pressed.

The review of the negotiations between the two Governments may now be resumed.

After consideration of the reply of the United States Government with regard to the extension of the *modus vivendi* licenses the Canadian Government proposed that as the fishery questions on both coasts were similar in character they should be dealt with together, and it offered to settle the whole matter on the following basis:

1. That the *modus vivendi* be extended to all fishing vessels, by whatever means they may be propelled; that it be applied to the Pacific coast as well as to the Atlantic; and that the annual fee be reduced from \$1.50 per registered ton to the nominal sum of \$1 per vessel. Also that the renewal of the licenses from year to year be not conditional on an order in council, but form part of the arrangement itself.
2. That United States fishing vessels on both coasts be allowed to sell their fish in Canadian ports for the Canadian markets, subject to customs duty, as well as to sell in bond.
3. That Canadian fishing vessels be allowed to purchase bait in United States ports or waters on equal terms with American fishing vessels.
4. That Canadian fishing vessels be allowed to take their catches to United States ports and sell them there, subject to customs duties if any.
5. That fishing vessels of either country visiting ports in the other be given clearances for the fishing grounds if so desired.
6. That the United States prevent American lobster well-smacks from fishing off the Canadian coasts during the close seasons for lobster fishing on such coasts.
7. That such arrangement be in force until the expiration of two years after either party thereto shall give notice to the other of its wish to terminate the same.

Following receipt of these proposals the United States Government suggested the appointment of a joint commission of inquiry in order that the whole matter might be properly dealt with. This proposal was favored by Canada. Hence the appointment of the present commissioners and the formation of this International Fisheries Conference.

Such objection to the proposed arrangement as was found to exist in the United States was believed to be based on the following alleged grounds:

ATLANTIC COAST

1. That fishing vessels can be built more cheaply in Canada than in the United States.
2. That the standard of wages paid on United States fishing vessels is higher than on Canadian fishing vessels.
3. That the standard of living on United States fishing vessels is better than on Canadian fishing vessels, and consequently the food bill is greater.
4. That the equipment of United States fishing vessels is of a more expensive character than on Canadian fishing vessels.
5. That the fishing outfit on the United States fishing vessels is usually of a higher grade than on Canadian fishing vessels, and consequently costs more.

6. That more space is required for crew accommodations on United States fishing vessels than on Canadian vessels. The berths in the United States fishing vessels may not be more than two tiers deep, while in the Canadian fishing vessels they may be three tiers deep.

7. That for the above reasons Canadian fishing vessels could operate more cheaply than United States fishing vessels, and if the former were permitted to bring their catches to United States ports and sell them there, they would drive the local fishermen out of the business.

8. That as there is a duty on fish going into Canada and none on fish going into the United States, the United States vessels would not be in as advantageous a position in the Canadian ports as would the Canadian vessels in the United States ports.

PACIFIC COAST

1. That the Canadian regulations as a whole, in connection with fishing vessels visiting the ports of that country with their catches, and the bait provision of 1916, in particular, operated so as to draw United States vessels to Canadian ports and to make it impossible for them to transfer their operations elsewhere after once going there; that as a consequence a large number of fishing vessels had already been transferred to the Canadian registry and unless action were taken to prevent it many others would follow.

2. That even under the proposed arrangement United States fishing vessels would not be in a position to fairly compete with Canadian fishing vessels, because while the Canadian vessels would have free access to the United States markets, there is a duty on United States caught fish sold in Canada, so that the Canadian fishing vessels would have the freedom of two markets while United States fishing vessels operating from the same ports would be confined to one, and that under conditions that arise in the marketing of fish, this would frequently mean the difference between a loss and a profit and so force the United States dealers out of business.

On the Canadian side such objection as existed to the proposed agreement was based on the following reasons, applicable to both the Atlantic and Pacific coasts:

That the United States markets, while desirable, are not now essential to the Canadian fishing industry; that Canadian vessels, both from the standpoint of a bait supply and proximity to the banks, can operate more successfully and produce more fish in the same time than vessels operating from United States ports, and consequently if the *modus vivendi* licenses on the Atlantic coast and the special privileges on the Pacific coast were done away with altogether, and United States fishing vessels held down to their treaty rights, they could not compete with Canadian vessels in the fishing business.

At the hearings on the Atlantic coast it developed that the objections had no substantial foundation, being largely based on incorrect data.

While there seems to be no doubt that years ago Canadian fishing vessels were built and operated more cheaply than their competitors from the United States, such is not now the case, and there is no known reason that it will be so again. The fishermen are paid on the same basis on the vessels of both countries, with slight differences in detail. The Canadian fishermen, like those on the United States fishing vessels, work hard, and demand and receive the best of food. The cost of food on the whole is practically the same in both countries. The equipment on Canadian vessels does not differ in kind or quality from that on United States vessels. The fishing outfit also is of precisely the same character, and is mainly obtained from the same manufacturers, who are either in the United States or Great Britain. The same practice is followed regarding crew space in the fishing vessels of both countries. In no instance are berths three tiers deep in Canadian fishing vessels.

The cost of building vessels is now about the same on both sides of the line. The evidence indicates that it is at present even cheaper in the United States than in Canada, but in normal times the difference in the prices of Nova Scotia and United States fishing vessels is due to a difference in the materials used in construction. The first cost of the United States fishing vessel is more, due to the fact that it is built of better and more expensive lumber, and, consequently, it lasts a much longer time. For the first five or six years the Canadian vessel would be the cheaper, but from that time on the cost of maintenance would be much greater, and when the Canadian vessel is worn out the United States vessel is still in good condition; so it may be questioned whether in the long run a United States fishing vessel is not even cheaper than a Canadian one. As this information was brought out, the local objections in the United States to an arrangement of the proposed character largely disappeared.

It also developed at the inquiries conducted by the commissioners that from the outset the great weight of opinion of those directly interested in the United States fisheries and fishery trade favored the fullest and freest intercourse and privileges for the fishing vessels of both countries. It was generally admitted that the existing restrictions had the effect of limiting production, and that, particularly at this time, such is not justified, but on the contrary that the two countries should assist in every feasible way in increasing production and enlarging the demand for fish. Taking into consideration the serious shortage and high price of meat on this continent at the present time, and with the proper facilities for the transportation of fish and intelligent advertising, it should be within the limits of speedy achievement to increase the consumption of fish an average of 1 pound per family per week. This would involve an addition to the available fish supply of both countries of over 1,000,000,000 pounds, to produce which there do not exist facilities in both countries combined.

There was everywhere exhibited a strong feeling that all old causes of differences should be permanently removed, and that such

should be done on a basis that would be equal and fair to both countries, so as to prevent the possibility of their revival. What was aptly expressed as a "fifty-fifty basis of settlement" found general favor.

There was marked objection in New England to the proposed requirement of any license or license fee, and this objection was none the weaker because it was sentimental. It was urged that as the proposed fee is purely nominal, it could not be an important factor, and, while the principle of equality might be met by requiring licenses in both countries, it would be much more satisfactory to have no such requirements at all.

It was also represented that at times it would not only be convenient but would result in the saving of fish, if United States fishing vessels were permitted to dress and salt their catches on board ship in Canadian harbors, and that time would be saved if, while in those harbors, they were permitted to mend fishing apparatus.

On the Canadian side the granting of these privileges, as well as the others, in the above proposal, was generally favored, providing that the facilities asked for in the United States ports were authorized and that the fishing by lobster well-smacks outside Canadian territorial waters during the close time for fishing in the territorial waters opposite was stopped. The larger firms felt that the opening of the United States ports to Canadian fishing vessels would be more disadvantageous to them than otherwise, as it would make it more difficult to control the movements of the vessels; but, like their American competitors, they were anxious for all sources of irritation between the two countries to be removed.

The evidence also showed that when fishing is carried on by steam trawlers (which type of vessel is rapidly increasing) there is comparatively little necessity for resorting to Canadian ports, and that so far as this fishery is concerned the vessels could get along without embarrassment if all local privileges were withdrawn in either country. While these privileges would be of much value to sailing or motor-power vessels, there would accrue marked advantage to local merchants by the sale of bait, supplies, outfits, etc.

In the light of the information before the conference, of the results of the hearings on the Atlantic coast, and of the urgent need of removing all obstructions to the greatest possible production of food and the freest movement thereof, the United States section of the conference, following its return to Washington, took up the question of immediately removing for the term of the war the restrictions imposed on Canadian fishing vessels in United States ports, and recommended that all such restrictions should be removed. This recommendation was approved by the President, and on the 21st of February last, the Secretary of Commerce issued an order to the collectors of customs, of which the following is a copy:

To promote the vigorous prosecution of the war and to make the utmost use jointly of all the resources of the nations now cooperating, you will permit, during the war, Canadian fishing vessels and those of other nations now acting with the United States to enter from and clear for the high seas and the fisheries, disposing of their catch and taking on supplies, stores, etc., under supervision as in the case of merchant vessels entering and clearing for foreign ports, except as to tonnage tax and other charges specifically imposed on entry from and clearance for foreign ports.

The Canadian section of the conference also recommended to its Government that during the war the privileges desired by the United States Government for the fishing vessels of that country in Canadian ports should be granted without the requirements of a license, and following the communication of this action of the United States Government to that of Canada an order in council was approved on March 8, 1918, of which the following is a copy:

The Minister of the Naval Service recommends, under the authority of the War Measures Act, Chapter 2, of the Statutes of 1914, that during the war United States fishing vessels, in addition to their treaty rights and privileges, shall be permitted to enter any port in Canada, without the requirement of a license or the payment of fees not charged to Canadian fishing vessels, for any of the following purposes:

- (a) The purchase of bait, ice, nets, lines, coal, oil, provisions, and all other supplies and outfits used by fishing vessels, whether the same are of a like character to those named in this section or not;
- (b) Repairing fishing implements;
- (c) Dressing and salting their catches on board ship;
- (d) The shipping of crews;
- (e) The transshipment of their catches;
- (f) The sale thereof locally on payment of the duty.

The Minister further recommends that the fees paid on licenses already taken out for the present calendar year be remitted.

The committee concur in the foregoing recommendations and submit the same for approval.

Thus, for the term of the war, and largely on account of war, this question, which for more than 100 years has been the cause of almost continuous international irritation, at times verging on war, has been settled.

The conference had the advantage of observing the initial operation of the arrangement before holding its hearings on the Pacific coast. As the past restrictions there had been removed, many grounds for complaint on the Pacific coast of the United States were taken away. At the hearings at both Seattle and Ketchikan there was unanimous approval of the arrangement as a war measure, so as to assure the largest supply and the freest flow of food, but there was a general feeling that it would not be satisfactory as a permanent measure unless there was the same access to the markets of both countries. It was urged that while the Canadian market is the smaller one, it is important, and that at present the Canadian dealers, having the markets of the United States available to them on precisely the same terms enjoyed by Americans and also their own markets, and being able to produce as cheaply, are in a decidedly advantageous position. There would apparently be general support of such an arrangement as a permanent one if this condition were changed as indicated.

On the other hand, one important witness in British Columbia claimed that such an arrangement would have the effect of handing over to the United States dealers the Canadian fishing business which had been worked up through years of effort.

There was, however, a strong undercurrent of feeling among United States fish buyers, particularly in Ketchikan, that if open ports were continued, since Prince Rupert is by far the nearest railway port to the fishing grounds, the arrangement would result in building up Prince Rupert, at the expense of Ketchikan and other Alaska ports, and in transferring United States vessels to Canadian registry.

As was previously stated, it had from time to time been urged that in recent years there had been on both coasts a heavy tide of transfers of fishing vessels from the United States to Canada.

An examination of the record shows that these claims are unfounded, and most careful consideration fails to indicate that there are substantial grounds for the fear that Alaska's best interests would not be served by the continuance of the present arrangement.

The transfer of vessels from either country has been restricted since 1916. Lists of transfers from either country to the other during the three years prior to 1917 will be found in the exhibits to the evidence. The United States list contains the transfers to all foreign countries. It will be observed that in 1914, 24 vessels of all kinds were sold to all countries from the United States. Of these, five were sold in Canada, and of these five, only two appear to have gone into fishing. In the same year, 20 vessels were transferred from the Canadian to the United States registry alone. It has not yet been ascertained whether any of these vessels have gone into fishing.

In 1915, 18 vessels were sold from the United States to all countries. Of these, only five were sold in Canada, and of these five, but two went into fishing, both into the British Columbia salmon fishery. They were small craft. In that year 14 vessels were sold to the United States from Canada.

In 1916, 32 vessels were sold from the United States to all countries. Of these, 10 were sold in Canada. So far as ascertained, three of these went into halibut fishing. They were small vessels, 45 feet long. In the same year, 21 vessels were transferred from the Canadian to the United States registry. The above are taken from the official records of both countries and do not include craft under 5 tons.

There is no evidence that residents of Alaska fishing ports are moving with their families to Prince Rupert. On the contrary, the fishermen stated that they are well satisfied to live where they are and to use Canadian ports when it suits their convenience. This is also the case on the Canadian Atlantic coast, where the conditions are largely like those in Alaska. Indeed, there seems to be unanimity among the fishermen themselves on this point. At the hearings at Ketchikan the fishermen expressed themselves as a unit, urging that the existing new arrangement of open ports should be continued. The representative of the Alaska labor union, which embraces the fishermen, explained that the fishermen as a whole held similar views to those expressed by the fishermen present. It was stated that the Ketchikan fishermen are more prosperous since Prince Rupert became a railway terminus, and that their deposits in the local bank are larger.

It is evident that there was considerable misconception as to the facilities afforded United States fish buyers and shippers at Prince Rupert and as to the conditions under which the business is there handled. Inquiry demonstrated that there is no substantial ground for complaint against the manner in which either the railway or the Canadian Fish & Cold Storage Co. does its business. The fish are sold daily by public auction; all dealers have even chances to purchase. The cold-storage company accepts and efficiently handles all fish that its competitors wish frozen, and at rates about which

there was no local complaint. Indeed, the local manager of each United States fishing company expressed himself as having received proper treatment from the cold-storage company.

It has also been claimed that competing United States fish companies were not given proper facilities by the railway, and that no suitable location would be made available to them for a cold-storage plant should they desire to build such. This was not found to be the case. None of the companies have so far desired to establish permanent facilities in Prince Rupert, and the railway company leased them most convenient temporary locations on its wharf on the written agreement or contract that should it find it necessary to move them, it would afford them other suitable sites. It was further provided that should permanent sites be desired, they would be available in the immediate vicinity of the plant of the Canadian Fish & Cold Storage Co., which area was set apart when the town site was laid out for such plants.

Your commissioners have at all times kept clearly in view the double purpose in dealing with this matter—the duty that in this critical period every obstacle to producing the largest supply of fish and to the freest movement thereof over the length and breadth of this continent should be removed, and the determination that this question which has always been annoying, occasionally becoming intolerable, should be settled for all time in a spirit of mutual concession and in a manner equitable and just to both countries. It is, moreover, their earnest belief that that which is to the best advantage of each of the two countries as a whole can not fail to be of the largest permanent advantage to the fishing industry itself.

The question has been settled for the term of the war by the removal of all the past port restrictions in either country. This settlement as a war measure has, so far as your commissioners have been able to ascertain, the hearty indorsement of all those engaged in the different branches of the business. Some months have elapsed since the new order of things was inaugurated, and your commissioners have attentively watched its working. While Canadian fishing vessels would be expected to visit the United States ports toward the end rather than in the earlier part of the fishing season, already a number of vessels have landed their catches directly at New England ports, and up to September 1 had added to the United States supply of food by over 5,000,000 pounds of fresh fish. On the other hand, United States fishing vessels are freely availing themselves of the privileges afforded them in Canadian ports. Up to the end of August, approximately 150 calls have been made by United States vessels at Canadian ports for bait and other requirements in connection with their operation over and above those covered by the treaty of 1818.

On the Pacific coast all the artificial conditions that were hampering the fullest and freest operation of United States fishing vessels have been removed, and the industry has proceeded from that standpoint with the utmost satisfaction, but the barrier of a tariff on one side and not on the other operates there much more than on the Atlantic coast as a serious obstacle to a permanent and satisfactory settlement.

Keeping in view the peculiar nature of this industry, which is carried on by the fishermen of both countries in the same waters and

under the same conditions, while in a large measure the same markets must be used by both, your commissioners wish to express the belief that this question can never be permanently removed from the field of discord unless the markets of both countries are available to the fishermen of both on the same terms.

In the light of these facts your commissioners feel constrained to recommend that the Canadian duty on fresh and fresh frozen fish, not including shellfish, be removed, and, with a view to assuring stability in the industry, that the two countries enter into an agreement by which such fish will be admitted customs duty free from either country into the other, and that such arrangement remain in force for 15 years, and thereafter until 2 years after the date when either party thereto shall give notice to the other of its wish to terminate the same.

Our peoples are to-day associates in a world conflict for the vindication of the principles of liberty, justice, and righteousness. This drawing together has enabled us to see as we could not otherwise have seen—what has frequently been asserted but will bear the emphasis of frequent repetition—that it was failure in the past to appreciate the purposes, aspirations, and desire of one another that has so long kept alive questions involving international friction. The ideals of both countries are the same. It is the general experience that no man can go into warfare of any kind without feeling at the end of the struggle that his heart is warm toward his associate and that new regard for and confidence in him have resulted. So it must be with nations, and we would be derelict in our duty if advantage were not taken of this opportunity to forever remove this fishery question from the field of controversy.

Your commissioners are convinced that this can best be achieved and the fishing industry as well as the people of both countries as a whole can best be served by permanently removing all barriers to the production and movement of fish in the two countries.

They therefore recommend that Article 1 of the treaty of October 20, 1818, be amended so as to make available in either country, to the fishing vessels of the other, the privileges covered by the instructions of the United States Secretary of Commerce to collectors of customs of that country, dated February 21, 1918, and by the Canadian order in council dated March 8, 1918, in substance as follows:

1. That the fishing vessels of either country may enter, from the high seas, any port of the other and clear from such port back to the high seas and the fishing grounds;
2. That the fishing vessels of either country may dispose of their catches and purchase bait, ice, nets, lines, coal, oil, provisions, and all other supplies and outfits in the ports of either country;
3. That the repairing of fishing implements in the ports of either country be allowed to the vessels of the other country;
4. That the fishing vessels of either country may dress, salt, and otherwise prepare their catches on board such vessels within the territorial waters of the other country;
5. That the fishing vessels of either country may ship their crews and tranship their catches in the ports of the other country;

6. That the fishermen of either country may sell their catches in the ports of the other country, subject to local tariff, if any.

If these recommendations meet with the approval of the two Governments, your commissioners suggest the propriety of arranging that the amending treaty be signed on October 20 next (1918). Such would be a most appropriate method of marking the one-hundredth anniversary of the original treaty.

REHABILITATION AND PROTECTION OF THE SOCKEYE SALMON OF THE FRASER RIVER SYSTEM

For the purposes of the sockeye salmon fishery the Frazer River system embraces not only the Fraser River itself and its estuary, but the southern portion of the Gulf of Georgia, Washington Sound, and Juan de Fuca Strait.

Five species of salmon frequent this system, viz., the sockeye, the chinook or spring, the coho or silver, the pink or humpback, and the chum or dog. There is also the steelhead, which, though not of the same genus, is commercially regarded as a salmon.

Of these the sockeye has always been the most valuable on the market as a canned fish. Its flesh is of a much deeper color and more oily than that of the other species. Moreover, the Fraser River system sockeye is the choicest of its kind, and brings a higher price than the sockeye of any other region.

All these species are anadromous. That is, they run up from the sea to spawn, and the young are hatched out in the fresh waters of the streams and lakes, from which they descend to the sea while young. The fish remain at sea until they reach maturity and then return to the fresh waters to spawn. A peculiarity of all the Pacific salmon is that they die after spawning, so that they never reproduce more than once.

The salmon return to the watershed in which they were hatched. Indeed, the theory is now commonly held, and has much to support it, that they return not only to the same watershed but to the identical stream or tributary of a stream in which they were born. Thus, each watershed, and possibly each stream, presents its own problem; and so it is that the Fraser River system of salmon fisheries may fail or improve without affecting one way or the other the fisheries of the neighboring areas.

While salmon of all five species spawn in the Fraser River basin and in streams of Washington, Vancouver Island, and the mainland of British Columbia, the sockeye resorts almost exclusively to the Fraser for spawning purposes; and it is the sockeye and its fishery which at this time constitute the most important international question affecting the fisheries of the Pacific coast of the two countries.

A small run of sockeye salmon resorts to the Skagit River, in Washington, but it is relatively unimportant, and its commercial possibilities, owing to the restricted area of the spawning grounds, are sharply limited. For all practical purposes it may be said that all the sockeye salmon that enter Juan de Fuca Strait from the ocean originated in the Fraser and are making their way back to it to reproduce and die.

In coming from the ocean these fish enter the strait on both sides of the boundary line, but after reaching the vicinity of the southern extremity of Vancouver Island the great majority pass over to the United States waters and do not emerge therefrom to any noteworthy extent until they have passed through the channels among the United States islands in Washington Sound. Thus it is that while these fish were hatched in the Fraser River and are proceeding back to it, by far the largest catches have been made in the United States waters. Usually 66 per cent or more of the total catch is taken in the State of Washington.

The Fraser River is potentially the greatest sockeye-producing stream on the Pacific coast. Its tributary lakes and rivers cover an area larger than that of any other stream on the Pacific slope. Under normal conditions of the fishery, the spawning sockeyes, overcoming what are apparently insurmountable rapids and falls, ascend for hundreds of miles and proceed right to the headwaters of the Fraser as well as to the headwaters of its tributaries.

A curious phenomenon of the Fraser River that has occurred at least since the earliest records—those of its discoverer, Simon Fraser—covering the period from 1806 to 1811, is an extraordinarily heavy run of sockeyes every fourth year, followed by three years of small runs, so that the seasons have come to be known as “big years” and “off years” or “lean years.”

What the cause of this was no one can say with finality. There are different theories. The most probable is that at some time prior to 1806 there came down from the mountains into the narrow portion of the river at Hell’s Gate Canyon or vicinity a slide which entirely or at least almost entirely blocked the ascent of the salmon, and that it took three years for the pressure and rush of the water to sufficiently wear away the obstruction to enable the salmon to pass, so that in those three years the only sockeyes that effectively spawned were those that normally resorted to the comparatively small portion of the system below Hell’s Gate. This theory is strongly supported by the experience of 1913, which will be referred to later.

The sockeyes of the Fraser River are predominantly four-year fish. That is, they reach maturity and return to the river to spawn and die when they are four years old. It has been ascertained by Dr. Charles H. Gilbert, the most eminent authority on the Pacific salmons, that a part of the runs each year consists of three-year and five-year fish, although the percentage of such is small. This being the case, it is easily possible to account for the presence of a limited number of fish on the spawning grounds above Hell’s Gate during the “off years” without invalidating the theory, for there would be a proportion of these fish that would not return to the upper spawning grounds during the fourth years of the cycle of the obstruction but would come back in three or five years and thus begin to build up the “off years.”

As commercial fishing did not begin to any extent until 1876, it is a surprising and disconcerting fact that the “off years,” which were known to have existed so far back as 1806, were not built up to a greater extent.

The year following the inception of commercial fishing on the Fraser River the industry began in Washington (in 1877). For

many years sockeyes were the only species canned, and as the market for them increased, fishing for them was carried on more intensively. While the "big year" runs were so enormous as to be unaffected by the immense catches made during them, the "off years" soon began to show coming exhaustion. As the fishery declined, the demand went up, and greater efforts were made to increase the output. More and more fishing equipment was used, until, had it not been for the weekly close time, when all fishing was required to be abandoned for a given period so as to give the fish a free run to and up the Fraser River, it does not seem that any appreciable number could have escaped. The fish are met as far out to sea as they can be located with purse seines. Nearly 500 of these great nets were in use in Juan de Fuca Strait and among the islands in Washington Sound last year (1917). Then nearly 200 traps were placed in their path along the shores of Washington and among the United States islands in the sound, as well as a few on the west side of Vancouver Island. Some gill nets, ranging up to 3,000 feet in length, were in use in the United States waters, and in the river itself and its estuary over 2,600 gill nets, each 900 feet long and 60 meshes deep, were used.

The Fraser is fished more intensively in proportion to its area and to the supply of sockeyes running therein than are the waters of Juan de Fuca Strait and Washington Sound. The combined length of the nets operated on the Fraser in 1917 was over 445 miles, of which about 400 miles were used in the 15 miles of river between its mouth and New Westminster Bridge. The degree of this intensity is indicated by the fact that for every square mile of river there were, in the section below the bridge, more than 30 linear miles of nets. In the year 1914 the total number of gill nets in use on the Fraser River was in excess of 3,000.

In the development of the fishery, the comparatively light runs of the "off years" were having a greater and greater proportion taken from them, so that fewer and fewer fish were reaching their spawning grounds. The result was inevitable. The fishery is now verging on exhaustion. The depletion of the spawning grounds above Hell's Gate, where during the "off years" the number of fish had always been comparatively small, became so marked as to make it necessary since 1913 to close, for want of an egg supply, the hatcheries established there by the Canadian Government, and thus the river, during the "off years," was back once more to almost complete reliance on the spawning grounds below Hell's Gate.

For years past the success of the sockeye industry in this district has depended on the "big year" runs. Several of the canneries on both sides of the line were idle during some of the "off years," and some of them more recently have operated only in "big years." In 1913, however, which was a "big year," a disaster occurred which put an end, at least temporarily, to the "big year" runs and reduced them to the dimensions of an average "off year." In Hell's Gate Canyon there was a small baylike indentation just above the "gate" which, it subsequently transpired, afforded the only available resting place to enable the salmon after rushing through the "gate" to gather their strength sufficiently to proceed through the remainder of this difficult canyon. Blasting operations in the construction of

the Canadian Northern Railway roadbed along the side of the canyon caused this resting place to become so filled by rock slides that the salmon could not resort there, and so were carried back below the "gate" by the force of the current. This obstruction was formed shortly before the heavy run of salmon began. As soon as it developed that the salmon were being held back, the best engineers available were sent to the spot to consult on the quickest means of overcoming the difficulty. Work was immediately started to clear the obstruction, and a temporary sluiceway to enable salmon to pass up was constructed. Some fish got through this, others were carried beyond by hand, and some got up at the time of high water at the beginning of the run, but not more in the aggregate than in a good "off year," so, while the removal of the obstruction was pressed along with all possible energy, it could not be completed in time to save the situation. Countless thousands of sockeyes wore themselves to death in repeated fruitless efforts to get beyond the "gate," their instinct compelling them to keep on trying instead of falling back and going up the lower tributaries, as is evidenced by the fact that these spawning areas were not more thickly resorted to by sockeyes than in other "big years."

Many of the persons engaged in the salmon business clung to the hope that, after all, sufficient sockeyes had got up to maintain the "big year," and preparations were made by such accordingly for 1917, the returning year of the cycle, but only to find that their hope was vain and that the "big year" was a thing of the past, unless extraordinary measures are taken to restore it.

The fact that these fish pass through the waters of the two countries makes it impossible to properly protect them by independent action. The fishermen of either side are inclined to operate to the limit when the fish are in their waters and place the responsibility for untoward results on those of the other country.

How the fishery has declined will be realized from the following statement of the packs of sockeye salmon for a series of years:

Year	Fraser River (number of cases)	Puget Sound (number of cases)	Total number of cases
1902	293,477	372,301	665,778
1903	204,809	167,211	372,020
1904	72,688	109,264	181,952
1905	837,489	825,453	1,662,942
1906	183,007	178,748	361,755
1907	59,815	93,122	152,937
1908	63,126	170,951	234,077
1909	542,248	1,097,904	1,640,152
1910	133,045	248,014	381,059
1911	58,487	127,761	186,248
1912	108,784	184,680	293,464
1913	684,596	1,673,099	2,357,695
1914	185,483	335,230	520,713
1915	89,040	64,584	153,624
1916	27,394	84,637	112,031
1917	123,614	411,538	535,152
1918 (estimated)	15,000	50,000	65,000

Two facts are outstanding: (1) The yearly possibilities of the Fraser River must be measured by the conditions in the "big year." All that is needed to produce the run of a "big year" any season is to have the spawning beds of the whole system seeded as plenteously

as in the "big years" of the past. The river is as free from pollution or artificial obstruction as it ever was, and all the conditions for successful spawning are as favorable as in early times. The only deficiency is in the spawning fish. (2) Unless drastic action is taken internationally to save the situation, the fishery will become commercially exhausted in a few years. The figures for 1918 clearly evidence this.

It would be an international calamity, involving almost criminal neglect on the part of both countries, if the latter condition were allowed to obtain. On the basis of the present prices, the sockeye progeny of this river should be producing annually a food worth over \$30,000,000, this figure being based on the actual pack of the last "big year," 1918. As it is, the average value for the four years ending 1918 is about \$3,000,000.

In the face of the foregoing, and in view of the fact that there can be no question but that the river can be restored by the proper procedure so that it will produce to maximum capacity every year, it is confidently believed that the interests in the two countries will stand behind the authorities of both in procuring the necessary action to bring this about.

Efforts have been made in the past for mutual arrangements to afford adequate protection, but without success. The most important of these was in connection with the treaty of 1908 for the international protection of the fisheries in the contiguous waters along the entire boundary line. This treaty failed, owing to the fact that the United States Congress refrained from approving the regulations drawn up under its provisions, though they had been approved by the Parliament of Canada. But even if the regulations under that treaty had been approved and made effective they would not have met the present requirements.

The situation is surrounded by outstanding difficulties, and great mutual concessions and forbearance must be exercised by those engaging in the industry on both sides of the line if the necessary steps to restore the fishery are to be taken.

In British Columbia the fishery interests feel very strongly that they have been in an unfair position all through the past years. They point out that while all the fish are bred in the Fraser River the fishermen have been sharply restricted in their operations, being allowed to use gill nets only, in addition to having to submit to a longer weekly close time than is effective in the State of Washington, while their competitors have been permitted to use traps and purse seines, much more capable and economical fishing appliances than gill nets; and they urge that while the fish are bred in Canadian waters and must there be properly protected if the fishery is to be saved from depletion, they obtain only one-third or less of the total catch. They contend that they have been called on to do too much of the protecting and are entitled to a more equitable proportion of the fish.

On the other hand, the fishing interests of the State of Washington contend that they have not been taking unreasonable advantage of their more favorable geographical position; that the quantities of fish caught have not been out of proportion to the area of the fishing grounds, the amount of capital invested, and the number of

persons dependent on and engaged in the fishery; that the fishing appliances used are suited to their waters and are not only of a character that can be efficiently and adequately regulated, but they are so regulated as to admit of a reasonable escapement of fish to the waters beyond.

Both sides, however, fully realize the absolute need for international action, and are prepared to make sacrifices in order to assure relief. While the proper disposition for essential action may have been lacking in the past, it seems now to obtain. The interests on both sides of the line are fully alive to the conditions, and they are evidently prepared to cooperate to save the industry.

While the Canadian Government is fully able to cope with the situation in British Columbia, it is recognized by the commissioners of both countries that a different condition exists in Washington because of the jurisdiction of that State over the fisheries. The American commissioners have no desire to impair or invade the powers which the State of Washington exercises over the fisheries; they realize that any proposed remedial action, to be effective, should receive the official support of the State and the general approval of the local public opinion.

As regards any particular remedial action that may be proposed, it must be conceded that it is impossible to state with certainty what the full results may be or when they may be achieved, because the experience is lacking on which reasonably safe predictions can be based. Therefore, taking cognizance of the best information available, it will be necessary to adopt a tentative course, in the expectation that, after proper trial, new measures or modifications may be required. In fact, in view of the rapidly changing conditions under which the salmon fisheries are now conducted, it would be strange if modifications in laws and regulations were not demanded at comparatively short intervals. Hence, action so drastic as to cause a virtual suspension of the industry would not, in the opinion of the commissioners, be justified at this time.

The honorable Commissioner of Fisheries for British Columbia has recommended that the two Federal Governments take over the fishery and compensate any who might be found entitled to such, owing to this action, so that the Governments might be free to regulate the fisheries without interference and operate them in the interests of the two countries. This course has much to commend it, but your commissioners feel that at this time, and under existing conditions, it is not feasible. Furthermore, in the case of the United States, there is no way known to the commissioners by which the Federal Government can acquire by purchase or otherwise fishery rights that are vested in the several States, unless such rights are voluntarily relinquished by the States.

Some of the specialists on the natural history of the salmon recommended that all sockeye fishing be stopped for a term of years, but in the light of the facts: (1) that they regard one cycle, or four years, as the minimum of closure and that two, three, or more cycles would likely be found necessary; (2) that as this course would force the closing of many canneries and render them worthless (the evidence shows that the machinery of a cannery will become scrap in five years if unused); (3) that as it would be impossible to stop all fishing during a sufficiently long period to cover the sockeye run with-

out interfering with the spring salmon fishery each year and with the pink salmon fishery at least every second year; and (4) that as the fact that the "off years" were not built up to anything like "big year" proportions during the long period known to have elapsed since the "off years" have existed and before commercial fishing began, thus leaving little ground for hope for speedy results from this course alone, your commissioners are not prepared to indorse this recommendation, at least until the trial of other methods has failed to yield reasonably effective results.

The stopping of all salmon fishing long enough to allow an escape-
ment of 50 per cent of the sockeye run in both the State of Washington and British Columbia was favored by most of those engaged in the industry on both sides of the line as a basis for international action, though it developed that there is considerable difference of opinion as to how this can best be done. It was suggested in the State of Washington that a closure of all fishing from July 20 to 31 on the United States side, and from July 25 to August 5 in British Columbia, so as to allow for the time that presumably would be taken by the salmon in passing from the strait to the Fraser River, would achieve the end in view; but this proposition was vigorously opposed in British Columbia on the ground that the difference in dates is too long and that it is doubtful if any such sliding scale would be justifiable, in view of the lack of positive knowledge regarding the movements and rate of travel of salmon.

Very material progress in the study of the life history of the sockeye has been made in recent years, but there is yet a great deal to learn. This can only be done by comprehensive and sustained study on the spawning grounds as well as otherwise.

Salmon hatcheries have been in operation for years and have turned out tens of millions of active, healthy fry annually, but neither in Canada nor the United States can sufficient results be pointed to so far as the runs of sockeye are concerned. This is not the case with all species. Hatchery work, supported by reasonably provident regulations, must, for instance, be given the credit for restoring the chinook salmon fishery of the Columbia River, but the chinook or spring salmon is a different species with different habits of both adults and young. The young of the chinook salmon can readily be held at the hatcheries until they are several months old and have reached a size when they are strong, active, and fairly capable of protecting themselves against natural enemies. So far, however, efforts that have been made at the Fraser River hatcheries to similarly retain young sockeye have not been successful, but information as to why this should be so and how it can be overcome is lacking.

New methods of hatching by the ingenious use of gravel in a manner that largely reproduces the conditions on the natural spawning grounds are being tried with considerable promise of success by the officer in charge of the Canadian Government hatchery at Harrison Lake on the lower Fraser, and it is possible that through these and other such experiments the present methods of sockeye hatchery operations may be revolutionized or at least vastly improved.

The fact that in all the "big years" of the past the spawning areas of the Fraser system, above as well as below Hell's Gate, were abundantly seeded, while in the "off years" the upper areas were very

lightly seeded, though normal seeding took place in the lower areas, indicates the necessity, through hatchery or other methods, of restoring the runs to the upper waters if this fishery is to be rehabilitated.

Further direct aid to the fisheries may be afforded by the systematic reduction in the numbers of predatory fishes that frequent the spawning grounds. There seems little room for doubt, in the light of the evidence before the commissioners, that the destruction of the eggs and young of salmon on the natural spawning grounds chiefly by other fishes is appalling. The mutilation and destruction by seals and sea lions of mature salmon on their way to the Fraser River is likewise large and serious, and its mitigation would have a highly beneficial effect on the supply, especially at this critical stage of the industry.

The foregoing considerations serve to emphasize the urgent need for comprehensive and continuous observation and study by experts, and indicate that in the meantime any action which would put the fishermen and canners entirely out of business would not be justified.

In the light of all the existing conditions, your commissioners are of the opinion that a treaty or convention for the proper regulation and protection of this fishery should forthwith be entered into by the two countries; that commissioners should be appointed, under this treaty, to thoroughly study the situation, and that they should have to assist them two experts, one appointed by the Government of each country, who should conduct continuous investigations into the life history of the sockeye, hatchery methods, eradication of natural enemies on the spawning grounds and in salt water, and other related subjects; and also that the sockeye hatchery operations on the Fraser should be inspected by the commissioners so appointed.

Your commissioners also recommend that the commission to be appointed cause an examination by competent engineers to be made of the sides of the Fraser River, at Hell's Gate and at other places where slides into the river that might bar the ascent of salmon are probable, such examination being for the purpose of ascertaining what may be feasible to avert such danger.

It is the judgment of your commissioners that the hatchery work on the Fraser River system should be extended as rapidly as available supplies of eggs will warrant, by the establishing of new hatcheries on spawning areas now being sparsely seeded, and that to this end eggs of sockeye and possibly other species of salmon be made available from waters of the United States, as well as from other Canadian waters, for the Fraser River hatcheries to as large an extent as practicable.

It is also important that the two Governments arrange to ascertain accurately how long it takes sockeye salmon from the time they enter Juan de Fuca Strait to reach and enter the Fraser River and, as far as possible, to pass from point to point along the said strait and the Gulf of Georgia.

And also that the two Governments arrange to carry on investigations and experiments with a view to finding some feasible means of overcoming the seal and sea lion menace to the salmon fisheries in the treaty waters, and if such means be found, to put them into operation.

Your commissioners append a draft of a proposed treaty (Appendix A) and of regulations thereunder for the restoration and protec-

tion of this fishery (Appendix B), the adoption of which, subject to such modifications in terms as the responsible officers of the two Governments may consider desirable, is urgently recommended.

These regulations will enable the industry to be conducted on a diminished scale for the next eight years. They will afford a much greater escapement of fish to the spawning grounds than has been the case heretofore, and they will enable observation as to the results, which will begin to show themselves in 1923 if, as contemplated, the regulations become effective in 1919. With the information that will then be before them, the commissioners will be in a position to know whether further restrictions are needed or what modifications in the regulations are desirable.

In connection with these regulations it may be useful to make the following notes in regard to those that are exceptional in their character.

Section 5 will have the effect of stopping all fishing by Indians above the tidal boundary for commercial fishing. From time immemorial it has been the practice of certain tribes of Indians to provide their winter supply of fish for themselves and their dogs by catching salmon by spearing and otherwise as they were passing through difficult channels in the upper reaches of the river, and even on the spawning grounds themselves. The number of fish so taken has, in the aggregate, been very large, and it was stated in the hearings that the number of salmon eggs consumed by the Indians annually would offset the operations of several hatcheries. Having regard for the value of each fish that succeeds in escaping all the appliances of the commercial fishermen and reaching the spawning areas and its importance in maintaining the volume of future runs, this Indian fishing is far from an economical method of supplying their food requirements. There exists prejudice on the part of the Indians to using fish prepared otherwise than in the manner followed by them, but keeping in view the welfare of the salmon fisheries, this prejudice should be overcome or should be considered of secondary importance.

Every reasonable facility and encouragement should be given the Indians to catch necessary supplies of salmon for their family uses in the tidal waters and to transport them to their homes, but should it be found necessary for the proper authorities to furnish them with certain quantities, either in a canned or cured form, it seems reasonable that the canning and fresh-fish interests on both sides of the boundary should cooperate in providing such food.

The annual close season provided for by Section 6 is designed to give the sockeye a free run to their spawning grounds during a portion of the time when the run is heavy. This protection is additional to that afforded by the present weekly close season, and it is anticipated that approximately a number of fish equal to 50 per cent of the usual pack will thus escape to the spawning grounds.

In the absence of final information as to the speed at which sockeye travel, after entering Juan de Fuca Strait and until they reach the Fraser, your commissioners do not feel justified in recommending any difference in the time of beginning and ending of this close period in either country. As will be noted in the recommendations forming part of this report, your commissioners urge, however, that

the two Governments take the necessary steps to procure this information. A beginning of this work has been made during the present year (1918). It may be found that if any difference is desirable, it should be provided not only so far as United States and Canadian waters are concerned, but as between different fishing regions in each country. The blanket method is obviously much more desirable from an administrative standpoint, and the fact that the fish are distributed over a large area while active fishing is going on, so that if all nets are lifted at one time fish that are in the river at that time will escape above the fishing limits may render it uncertain whether in the long run there is any real advantage in a progressive close season.

It was urged by several witnesses that this annual close time should be established in lieu of the weekly close time. It is certain, however, that the good effects of the proposed annual close time would be practically nullified if this were done. Both the proposed annual and weekly close times together can not be relied upon to permit the escapement of more than 50 per cent of the fish. This is clearly shown by figures for a series of years furnished for the purpose by the associations acting in behalf of the fishery interests on both sides of the boundary. These figures for British Columbia are complete; for Puget Sound they cover the catch handled by only a portion of the canneries, but are offered by the Washington Fisheries Association as being typical of the entire catch. Assuming that this is correct, the percentage of the total catch taken during the period from July 20 to 31, inclusive, on the two sides was as follows for each of the years indicated:

	Per cent
1914-----	28.44
1915-----	16.31
1916-----	36.99
1917-----	40.10

The total quantity packed during these 12 days in the four years named would be 32.5 per cent of the total pack for these years.

The weekly close time provided by the proposed regulations, namely, 36 hours, is 21.4 per cent of each week. Assuming that during these 4 years there had been no weekly close time, the catch during these 36 hours per week would have added 18.5 per cent to the pack. Combining this figure with the 32.5 per cent for the 12-day periods would give an escapement of 51 per cent of the packs during both the annual and weekly close times. It is not claimed that these figures represent exact conditions, as there are various unknown factors, but they are a fair deduction from the figures submitted.

There can be no question that the toll taken in the past "off years" has been far too great to maintain the runs, even at their present proportions, and that a much larger escapement of fish to the spawning areas must be assured if the annually declining runs are to be turned into annually increasing runs.

Fishing is now permitted in the Fraser River up to Mission Bridge, about 50 miles from its mouth, although fishing from New Westminster Bridge, 12 miles above its mouth, to Mission Bridge is limited to residents along that portion of the river. The evidence shows that the fishermen in this area make practically their whole catches in the first two or three days following the weekly close

time; or, in other words, when the mass of nets below the bridge gets into full operation too few fish escape beyond it to make the fishing above worth while.

On the other hand, the fishermen above the bridge are *bona-fide* residents, who settled there with a view to the fishing, on which they depend to an important degree to enable them to become established on the land. In the circumstances your commissioners feel that it would be unfair to deprive these people of all fishing privileges, but it is evident that the fish must have more protection. It is therefore recommended that the weekly close time above the bridge be 24 hours longer than below it and that other restrictions be thrown around the exercise of the fishing privileges in this region.

The proposed method in Section 7 of arranging the traps during the close time is that required in the Columbia River. The opinion is fairly general that, with jiggers attached to the traps, the mere closing of the entrance for a short time does not assure that salmon will escape, which is the sole object in view, but rather that they will play between the leader and the jigger until the trap is again opened. By opening a portion of the lead in addition to closing the trap the fish will be given a much better chance to move onward.

Sections 9 and 10 relate to purse seines. At the present time purse seines may be operated right up to the entrance to a trap. The purse seiners urge that as the trap is in fishing order during the whole fishing season, both night and day, excepting when it is being lifted, and that purse seines can be used only in the day and when evidence of fish are visible, the existing provision of law is fair and should be continued.

Your commissioners do not so regard the matter. The trap is a stationary appliance, and so can only take the fish that come to it, whereas the purse seiner can follow a school of fish in all portions of the area where fishing is permitted. In the circumstances, to require purse seiners to refrain from casting their nets within 2,400 feet of a stationary fishing appliance is not a hardship.

The use of purse seines in the narrow channels among the islands in Washington Sound and the Gulf of Georgia should not be permitted. Such seines can be so used in these passages as to practically block them and so prevent a reasonable escapement of the run of fish. Their use might as fairly be permitted in the Fraser River itself. The purse seine is an extremely capable fishing device and from its very nature should be restricted to the open waters.

The other proposed regulations involve no new principles and therefore need no special comment.

In closing consideration of this matter, your commissioners again emphasize the vast importance of this fishery to both countries. Every year's delay means added depletion that will require several years longer of sharp restriction to undo, while, on the other hand, immediate action will assure much more speedy recuperation, as there will be a larger body of fish to work with, and thus hasten the return of the day when the river system will be producing over 2,300,000 cases of sockeye, not only one year in four but every year, instead of about one-fifth of that quantity, which, under existing conditions, must rapidly grow less and less.

Your commissioners gratefully acknowledge the generous and capable assistance afforded by the local fishery authorities, interests,

and associations, and especially by Commander Miller Freeman, publisher of the *Pacific Fisherman*; Mr. Frank Warren, president of the Association of Pacific Fisheries; Mr. L. H. Darwin, commissioner of fisheries for Washington; Lieut. Col. F. H. Cunningham, chief inspector of fisheries in British Columbia for the Federal Government of Canada; Mr. John P. Babcock, assistant to the provincial commissioner of fisheries; and Dr. A. McLean Fraser, the representative of the Canadian biological board in British Columbia. These gentlemen voluntarily served with the subcommittee of your commissioners in considering a proper system of regulations for this fishery, and so greatly facilitated the inquiries and findings of your commissioners.

PROTECTION OF THE PACIFIC HALIBUT FISHERY

There exists off the coasts of Alaska, British Columbia, and Washington the most productive halibut grounds the world has known, but in recent years there has been much overfishing, many of the grounds have become depleted, and the general supply of halibut is threatened with commercial exhaustion. As most of the halibut are taken on the high seas, the situation can only be effectively dealt with by concerted international action. This fishery has not been participated in by any other countries than the United States and Canada, and, in view of the great distance of the Asiatic coasts, there seems no reason to anticipate that the fishery will be prosecuted from the ports of that coast, so that an arrangement between the United States and Canada is all that is now needed.

Owing to the excellent shipping qualities of halibut which enable it to be placed on far-distant markets in a fresh condition, the demand for this fish grew rapidly, and the production kept up with the demand.

At first sufficient halibut to meet requirements were taken from the banks off Cape Flattery, but as the demand increased, new areas of production had to be sought. Hecate Strait was early visited, and later banks off the west coast of Vancouver Island were located. The Hecate Strait banks were of extraordinary productivity, and the halibut taken there are of the best quality.

The evidence shows that in the early years the larger vessels could catch a full fare of 300,000 pounds in two or three days of good weather. Fish of undesired sizes were not retained, or at best not more than a limited percentage of them would be accepted by the dealers, and all fish other than halibut that were taken were thrown away as caught. As these would not survive, they were a dead loss.

As the halibut is a slow-growing fish, investigations indicating that even at 12 years of age only 50 per cent have reached maturity, the nearer grounds could not long stand this intensive fishing, but the ever-growing demand with the rise of prices was a sufficient inducement for greater and greater efforts in producing the fish. The older banks were combed over and over, new ones were being continuously sought for, and the fishery moved farther and farther northward as the older banks became depleted.

In 1913 or 1914 it was learned that in autumn large numbers of halibut resort to the Yakutat Banks, off Alaska. A large winter fishery immediately developed there, and now fishing has been ex-

tended to Kodiak Island, and even farther westward, so that vessels from the more southern ports visiting these banks have to sail 1,800 or 2,000 miles before they wet a line. Obviously it is only because there is no large halibut fishery on the Atlantic coast, and that no other fish up to the present fills the place of the halibut, that this fishery is maintained.

The opening of Prince Rupert as a transcontinental railway terminus in 1915 increased the activity of the fishery, as that port is some 600 miles nearer the main fishing grounds than Vancouver and Seattle; also a company equipped with a large cold-storage plant to enable it to engage in this fishery was located there. The opening of this port furthermore made this fishery feasible for a very considerable fleet of small two- and three-dory vessels that can operate within a radius of approximately 300 miles.

Excepting on the far northwestern banks, the depletion is everywhere apparent and most serious. As would be expected, the weight of fishing fell on the large mature fish. Consequently the proportion of mature fish that is left on the more southern banks is so alarmingly small as to render the future of the fishery thereon precarious. Fishing on these banks still goes on, but mainly by the smaller vessels that can operate more cheaply, and unless the necessary steps are taken without delay to properly protect the halibut, not only will the more distant banks fall into the exhausted condition of the nearer ones, but these nearer ones will be depleted to the extent of commercial exhaustion. If, on the other hand, effective measures are now put into operation, the more southern banks can probably be restored in time, and the distant ones can be maintained at their maximum productivity, so that a large annual yield therefrom can be assured. One of the important witnesses before the conference expressed his well-considered opinion that these distant banks must be depended upon in future to supply 75 per cent of the halibut production.

Remarkably little investigation into the natural history of the halibut has been made in any part of the world. By far the most complete studies are those conducted by Prof. W. F. Thompson, who for several seasons was employed for such purpose by the provincial department of fisheries in British Columbia. His investigations indicate that the halibut of the various banks are of different races and do not comingle, so that there are no common spawning areas, and each bank has its own problems. He found that all the fish do not spawn at or even near the same time, but that the spawning season is embraced within the period between the middle of December and the last of April or the middle of May. The evidence given before your commissioners by the practical fishermen and others engaged in the industry all tends to show that the main spawning period lies between the 15th of December and the 15th of February.

With remarkable unanimity all those engaging in the industry—the small boat and independent vessel fishermen, as well as the companies owning numbers of vessels—strongly urged that all halibut fishing should be stopped during three winter months, the majority favoring the period from the 15th of November to the 15th of February, so as to protect the spawning fish. Indeed, there was but one important exception to this recommendation, and that witness admitted that during the past season his company did not operate any

of its own vessels during that period, but depended for its supplies on the purchase of the catches of independent fishermen.

While it would seem possible, in view of the fact that the halibut carry their eggs for months before they are extruded, to undo any good effects of a close season during the suggested period by fishing operations additional to those now carried on, during the remainder of the year, it was generally contended that this would not be commercially practicable.

Apart altogether from the standpoint of conservation of the halibut, exceedingly strong reasons were placed in evidence for prohibiting halibut fishing during this time, viz.:

1. The weather conditions are then at their worst, and all, or nearly all of the serious loss of life and vessels in this fishery has occurred during this time.

2. It is during this period that practically all the loss of fishing gear takes place, and such loss is then enormous. It is claimed that 50 per cent of the gear of every vessel is lost or has to be cut away during this time. When it is stated that the larger vessels "set" what is equal to 48 miles of line per day and that hooks are fastened to these lines at intervals of about 10 feet, what this loss of gear means in the aggregate will be realized.

3. Apart from the monetary loss involved in the destruction of gear, which in itself is exceedingly heavy, this midwinter fishery tends to drive the fish from the grounds. As the fish bite with avidity during the spawning season, it is reasonable to assume that when this gear is left in the water, fish will become impaled on most of the hooks and will eventually die and decompose.

4. The evidence shows that 15 per cent of the annual catch is made during these three months, but in addition thereto it is estimated that 10 per cent of the total catch is taken and destroyed on this lost gear.

5. The fish caught at this time are in a very inferior condition from a food standpoint and should not be marketed. They are thin, their flesh is flabby, and they are known to the trade as "slabs."

6. Three months in the year are needed to properly overhaul and prepare the vessels, so that these three months would be used to advantage.

It seems obvious in the light of the foregoing that the only reason that fishing is carried on during these months is owing to competition. The practice in the business is to freeze and store for use during the winter, when production is not equal to the demand, the quantities that can be taken during the remainder of the year that are in excess of the immediate market requirements, but as at the present time frozen fish can not be sold in competition with fresh fish, the firm having fresh fish at all times has a trade advantage in the markets over one that has not. If all were on the same footing in this respect, all or almost all would favor no fishing being permitted during this period.

Professor Thompson, in his informative and capable reports, favors the method of dividing the ocean into zones and closing these

zones alternately, or as may be found desirable, for a term of years to all halibut fishing. This method is opposed by all the fishing interests, and for the following reasons your commissioners do not regard it as feasible:

1. It would make it impossible for the small boats which can not conveniently operate beyond a radius of 150 to 200 miles, or 300 miles at the outside, to remain in the business when the areas in the vicinity of their home ports were closed, whereas, in the opinion of your commissioners, the greatest promise for development of the fisheries on the Pacific coast of both countries lies in the growth of this small-boat fishery operating out of local ports.

2. Fishing would be so centralized and concentrated on the open areas that the good effects of the close time would be more than offset.

3. The end in view would not be achieved unless all fishing were prevented in a closed area, and this would very seriously retard the development of fishing for other species of fish, many of which are now coming into favor and are capable of supporting an important industry.

4. The temptation to fish in closed areas would be very great, and an extensive and expensive patrol would be needed to prevent it.

The situation is much more difficult to deal with effectively than it would have been a few years ago, because recently an extensive demand has been built up for the different kinds of so-called "cods," skate, grayfish, etc., which are taken incidentally when fishing for halibut; furthermore, such a large demand has been created for the various species of flounders that abound on the Pacific coast that steam trawling for them is now being engaged in as a regular industry, and limited quantities of halibut are taken by such trawlers.

As previously explained, in former years all the fish, other than halibut, were thrown away as caught, as there was no market therefor. In this way millions of pounds of excellent food fish, among them the same kind of cod that is the mainstay of the Atlantic fisheries, were each year destroyed and wasted. This waste still goes on to far too great extent, owing to the limited local demand and sale for these excellent food fish.

It is of the utmost importance to both countries that the demand for these fish should become general, as it will when their excellence is generally known. Owing to the fact that they can be produced in large quantities, they can be sold at less than one-half the price of halibut. It is therefore imperative that no action should be taken which would retard the development of these fisheries.

While these other fisheries make more difficult the adequate protection of the halibut fishery, they may possibly be the saving factor in the halibut situation by replacing in a large measure the demand for halibut and thus reducing the incentive to the overexploitation of that fishery.

As all these lesser known but excellent food fish can be best placed on distant markets in a frozen condition, it is doubtful whether the stopping of fishing therefor during the period between the 15th of

November and the 15th of February, as was generally recommended by those appearing before your commissioners, would be harmful to the industry, as at the present time sufficient quantities can be readily taken during the remaining portions of the year to more than meet all requirements; but as the demand is growing rapidly, this condition may not long continue, and it is not considered wise to adopt any measures that might prove detrimental to it. Moreover, it is undesirable that there should be any interference with the development of small-boat fishing that is being carried on to some extent to supply the fresh-fish demands in the coastal centers of population.

If such minor fishing is allowed to go on, there is no doubt that while what are regarded as special halibut grounds may not be resorted to, small quantities of halibut will necessarily be caught, as the gear that is used to catch cod, etc., as well as the steam trawlers, will take halibut also. Experience shows that approximately 6 per cent of the catches of the steam trawlers so far operating for flounders consists of halibut. However, if the sale of such halibut outside of the local coastwise markets were forbidden during the close time for halibut fishing, it would serve to prevent halibut fishing, as such, under the cloak of fishing for other species, because fishing for halibut on the remote banks during this period costs so much that it would not pay if the fish had to be sold at the rates obtainable for frozen halibut.

It is true that the evidence indicates that on some of the remote northwestern banks halibut are now found during fall and winter only, so that the adoption of a close season between the 15th of November and the 15th of February would mean that these fish would not be caught to any great extent. But with the depleted state of the halibut fishery as a whole, it is not objectionable that the resources of some of the producing areas should be largely withheld from exploitation for the present and until the effects of international protective action can be measured.

In the light of all these conditions your commissioners recommend that there shall be a close time on halibut fishing on the Pacific coasts of the United States and Canada from the 16th day of November in each year to the 15th day of February following, both days inclusive, for a period of 10 years beginning in November 1919, during which close time it shall be unlawful to fish for, land, discharge, kill, ship, receive for shipment, or offer for sale at any port or place in the United States or Canada any halibut caught in violation of this restriction; provided, however, that halibut taken incidentally in fishing for other species of fish during the said close period may be sold fresh for local consumption only or may be frozen at the port where landed, but no halibut other than in a frozen condition may be shipped until after the close season for the year then current shall have expired. Proper penalties for violation of these requirements should be provided by the two countries.

Your commissioners also recommend that joint investigation into the halibut, as contemplated by the resolution which forms Exhibit P to the hearings attached, should be ordered and provision should be made for the reopening of the matter of regulation after a period of four years if investigation warrants and demands such action.

The commissioners that may be appointed under the suggested treaty for the protection of the sockeye salmon fishery of the Fraser River system might properly be charged with the supervision of the proposed halibut close season and investigations and be required to report to the two Governments the effects of such close season.

Your commissioners are impressed with the undesirability of making any regulations that would not be subject to modification within a reasonable time, as the conditions surrounding this fishery are liable to change rapidly.

FISHING BY UNITED STATES LOBSTER WELL-SMACKS OFF CANADIAN COAST

When at an early meeting of the conference the Canadian section explained the unfair position in which the Canadian lobster fishermen on certain parts of the Nova Scotia coast were being placed by United States lobster well-smacks fishing just outside the territorial waters during the close time for lobster fishing inside such waters and using the local harbors as a base for this fishery by resorting thereto each night under the cloak of coming in for shelter, which seems a clear breach of the spirit or intention of the treaty of 1818, the unfairness of the position was admitted by the United States section, and forthwith the Secretary of Commerce ordered that there be prepared for submission to Congress a bill designed to prevent such fishing.

This prompt action was indorsed at the hearings at Boston by all the people who had been engaged in the industry, all of whom said they would not put any vessels in this fishery.

Thus, even before congressional action could be completed, the end in view has been achieved, and there has been settled a question, which, though affecting up to the present only a limited portion of the coast of Nova Scotia, was causing such growing unrest among the lobster fishermen there as to threaten the total breakdown of the protective regulations designed for the conservation of the fishery, both inside and outside territorial waters.

PROTECTION OF THE FISHERIES OF LAKE CHAMPLAIN

At the Boston hearings representatives from the States of New York and Vermont appeared to urge better protection of the fisheries in Missisquoi Bay, the Canadian portion of Lake Champlain. This matter had received preliminary consideration by the conference during its sittings in Washington, D. C.

It was explained that for some years past these two States, with the cooperation and assistance of the Federal Government, were endeavoring to make Lake Champlain a favorite tourist resort, as, owing to its character, it could not support any extensive commercial fishing. To this end both States were prohibiting all net fishing, but the most important spawning grounds for pike-perch, the most valuable fish in the lake, are in the portion thereof that is in Canadian territory, and there each spring, when the fish crowd into these waters to spawn, they are caught with seines. Thus the good effects of the work of the two States were being largely nullified.

It was also explained that the United States Bureau of Fisheries operates a pike-perch hatchery on the lake and that it was prepared to enlarge the hatchery and increase its work if the net fishing were stopped.

While this matter was not explicitly referred to the conference for consideration, it was one of which it could take cognizance. It was therefore left with the Canadian delegation for such action as they felt justified in taking.

Following the return of the Canadian section to Ottawa, after hearings at St. John, it laid the facts before the Canadian Government, and recommended that all net fishing in Missisquoi Bay should be stopped. This recommendation was approved, and the fishery regulations for the Province of Quebec were amended accordingly by order in council of February 18, 1918.

REQUIREMENTS IMPOSED ON CANADIAN FISHING VESSELS PASSING THROUGH TERRITORIAL WATERS OF ALASKA

The Canadian section of the conference brought up for consideration the difference in treatment accorded to Canadian fishing vessels by the United States authorities on the Pacific and Atlantic coasts.

On the Pacific coast, the United States fishing vessels leaving Washington ports for the northern fishing grounds of Alaska sail through the narrow territorial channels along the coast of British Columbia, between the islands and the mainland, so as to escape the rougher outside waters, and are required neither to enter nor report at any Canadian customs office, while Canadian fishing vessels passing through similar channels along the coast of Alaska to the fishing grounds on the high seas beyond have been required to enter and clear at Ketchikan, thus not only losing time but involving the payment of fees, which usually amount to from \$12 to \$15 on the larger vessels, on each occasion.

On the other hand, on the Atlantic coast, Canadian fishing vessels were not permitted to come from the fishing grounds to United States ports, nor were they given clearances from such ports to the high seas, but had to clear for a port in a foreign country.

This matter was investigated during the hearings on the Pacific coast, and was found to be substantially as above stated, for while the vessels were not cleared from Ketchikan for the fishing grounds, they were cleared for a Canadian port by way of the fishing grounds, and thus went from Ketchikan to the fishing grounds and thence back to a Canadian port.

The law under which entry and clearance was required was an enactment to prevent smuggling, and as there was some question as to whether a proper interpretation was being placed upon it, in requiring passing fishing vessels to enter and clear, the question was forthwith taken up by the Department of Commerce, which, after full consideration, found that the practice which had grown up was not warranted by law. It was forthwith discontinued.

Thus another matter, which has been the cause of complaint and irritation in the Canadian vessel fisheries ever since the beginning of these northern fishing voyages, has been satisfactorily disposed of.

PROTECTION OF THE STURGEON FISHERIES

The question of the very serious and continuing decline of the sturgeon fisheries, not only in the waters contiguous to the boundary but in nearly all the non-contiguous waters as well, was also considered by your commissioners, and the following resolution on this subject was adopted:

WHEREAS the sturgeons are individually by far the most valuable fishes inhabiting North America;

WHEREAS the supply of sturgeons in all waters in which the fishery has been active has been so materially reduced as to presage commercial extinction which, in fact, has already occurred in certain waters;

WHEREAS it is evident that the measures heretofore adopted are entirely inadequate to arrest the rapid decline of the fisheries or even maintain the present greatly diminished supply: Therefore be it

Resolved. That this conference regards it as necessary that all sturgeon fishing in all the contiguous waters of the United States and Canada be suspended for a period of at least five years, and that each country should undertake to carry this purpose into effect by appropriate legislation or other official action.

Resolved further, That this conference strongly recommends the adoption by appropriate legislative bodies of a similar prohibitory measure for non-contiguous waters.

In this connection, your commissioners wish to commend the adoption of a regulation by the Canadian Government on the 22d of March, 1918, providing for a four years' prohibition of sturgeon fishing in Lake Erie if the bordering States of New York, Pennsylvania, and Ohio enact similar legislation. This conference urges that such action be taken by these States and that provision for a longer period of closure will be speedily adopted, so far as all boundary waters are concerned, as well as waters not contiguous to the boundary in both countries.

PROTECTION OF WHALES

The question of the protection of the diminishing number of whales on the Atlantic and Pacific coasts of both countries received the consideration of the conference. The downward trend of the whale fishery is general, not only on the coasts of the United States and Canada, but in all parts of the world frequented by these mammals, and the modern appliances for hunting whales are so efficient as to threaten not only the commercial exhaustion of the fishery everywhere, but the extinction or practical extinction of the species.

While an arrangement between the United States and Canada for the protection of whales would no doubt be of some advantage, yet, owing to the wide migrations of these animals and to the fact that they could still be pursued without any restrictions on the high seas off the coasts of both countries by vessels from other nations without using territorial waters beyond seeking shelter from storms, it is doubtful if the whaling industry on this continent can be safeguarded in that way.

Your commissioners are therefore of the opinion that, following the ending of this war, an international conference, consisting of representatives of the different maritime countries interested, should be called to consider world-wide international action to assure the sav-

ing of the whales from extinction and the perpetuation of the whaling industry.

WILLIAM C. REDFIELD

EDWIN F. SWEET

HUGH M. SMITH

Commissioners for the United States

J. D. HAZEN

G. J. DESBARATS

W.M. A. FOUND

Commissioners for the Dominion of Canada

Signed at Lake Champlain, N. Y., Friday, September 6, 1918.

APPENDIX A

[Draft]

TREATY BETWEEN GREAT BRITAIN AND THE UNITED STATES CONCERNING THE SOCKEYE SALMON FISHERIES OF THE FRASER RIVER SYSTEM

WHEREAS the Governments of Canada and the United States, realizing the necessity for joint action in the protection, preservation, and propagation of the sockeye salmon of the Fraser River system, referred the question to an International Joint Commission appointed by the respective Governments in December 1917, to consider a settlement of outstanding questions affecting the fisheries between the two countries; and

WHEREAS the said commission, having investigated the matter, recommend the adoption and enforcement by the two countries of the regulations appended hereto and the appointment of an International Fisheries Commission to conduct investigations into the life history of the salmon, hatchery methods, spawning-ground conditions, and related matters, and to observe the effects thereof and to recommend any modifications thereof or additions thereto which may in the light of experience be found desirable;

His Majesty George V of the United Kingdom of Great Britain and Ireland and the British Dominions beyond the Seas, King and Emperor of India, and the President of the United States of America, having resolved to enter into a treaty thereto, have for that purpose appointed

who, having exchanged their full powers, found to be in due form, have agreed to and signed the following articles:

ARTICLE 1

The times, seasons, and methods of sockeye-salmon fishing in the Fraser River system, as specified in Article 3 of this convention, and the nets, engines, gear, apparatus, and appliances which may be used therein shall be limited to those specified in the system of regulations appended hereto.

ARTICLE 2

The two Governments engage to put into operation and enforce by legislative and executive action, with as little delay as possible, the said regulations, restrictions, and provisions, and such others as may from time to time be adopted by the two Governments; and the date when they shall be put into operation shall be fixed by concurrent proclamations of the Governor General of the Dominion of Canada in Council and of the President of the United States.

ARTICLE 3

It is agreed that the aforementioned regulations will apply to the waters included within the following boundaries:

Beginning at Carmanagh Lighthouse on the southwest coast of Vancouver Island; thence in a straight line to a point 3 marine miles due west astronomic

from Tatoosh Lighthouse, Wash.; thence to said Tatoosh Lighthouse; thence to the nearest point of Cape Flattery; thence following the southerly shore of Juan de Fuca Strait to Point Wilson, on Quimper Peninsula; thence in a straight line to Point Partridge, on Whidbey Island; thence following the western shore of the said Whidbey Island to the entrance to Deception Pass; thence across said entrance to the southern side of Reservation Bay, on Fidalgo Island; thence following the western and northern shore line of the said Fidalgo Island to Swinomish Slough, crossing the said Swinomish Slough in line with the track of the Great Northern Railway; thence northerly following the shore line of the mainland to Point Grey at the southern entrance to Burrard Inlet, British Columbia; thence in a straight line to the southern end of Gabriola Island; thence to the southern side of the entrance to Boat Harbor, Vancouver Island; thence following the eastern and southern shores of the said Vancouver Island to the starting point at Carmanagh Lighthouse, as shown on the United States Coast and Geodetic Survey Chart No. 6300, as corrected to July 20, 1918, and also the Fraser River and its tributaries.

The two Governments engage to have prepared, as soon as practicable, charts of the waters described in this article, with the international boundary line indicated thereon; and to establish such additional buoys and marks for the purposes of this treaty as may be recommended by the commission referred to in the following article.

ARTICLE 4

The High Contracting Parties agree to appoint a commission, to be known as the International Fisheries Commission, consisting of four persons, two to be named by each Government, to conduct investigations into the life history of the salmon, hatchery methods, spawning-ground conditions, and other related matters, and to observe the effects of the said regulations and to recommend to their respective Governments any modifications of or additions to the aforementioned regulations which may in the light of experience be found desirable.

ARTICLE 5

The International Fisheries Commission shall continue in existence so long as this convention shall be in force, and each Government shall have the power to fill, and shall fill from time to time, any vacancy which may occur in its representation on the commission. Each Government shall pay its own commissioners, and any joint expenses shall be paid by the two Governments in equal moieties.

ARTICLE 6

This convention shall remain in force for a period of 15 years, and thereafter until two years from the date when either the Government of Great Britain or the Government of the United States shall give notice to the other of its desire to terminate it.

ARTICLE 7

The regulations, restrictions, and provisions provided for in this convention shall remain in force for a period of eight years from the date of their executive promulgation, and thereafter until one year from the date when either the Government of Great Britain or of the United States shall give notice to the other of its desire for their revision, and immediately upon such notice being given the commission shall proceed to make a revision thereof, which revised regulations, if adopted and promulgated, as provided by Article 2 hereof, shall remain in force for a period of five years, and thereafter until one year from the date when a further notice of revision is given, as above provided in this article. It shall, however, be in the power of the two Governments, by joint or concurrent action upon the recommendation of the commission to make modifications at any time in the regulations, and to bring any or all of the other species of salmon, including steelhead, within the scope of such modified regulations.

ARTICLE 8

The present convention shall be duly ratified by His Britannic Majesty and by the President of the United States, by and with the advice and consent of the Senate thereof, and the ratifications shall be exchanged as soon as practicable.

In faith whereof, the respective plenipotentiaries have signed the present convention in duplicate, and have thereunto affixed their seals.

Done at _____ in the year of our Lord one thousand nine hundred and eighteen.

APPENDIX B

A SYSTEM OF INTERNATIONAL REGULATIONS FOR THE PROTECTION AND PRESERVATION OF THE SOCKEYE SALMON FISHERIES OF THE FRASER RIVER SYSTEM

SECTION 1. The following regulations shall apply to the waters included within the following boundaries:

Beginning at Carmanagh Lighthouse, on the southwest coast of Vancouver Island; thence in a straight line to a point 3 marine miles due west astronomic from Tatoosh Lighthouse, Wash.; thence to said Tatoosh Lighthouse; thence to the nearest point of Cape Flattery; thence following the southerly shore of Juan de Fuca Strait to Point Wilson, on Quimper Peninsula; thence in a straight line to Point Partridge, on Whidbey Island; thence following the western shore of the said Whidbey Island to the entrance to Deception Pass; thence across the said entrance to the southern side of Reservation Bay, on Fidalgo Island; thence following the western and northern shore line of the said Fidalgo Island to Swinomish Slough, crossing the said Swinomish Slough in line with the track of the Great Northern Railway; thence northerly following the shore line of the mainland to Point Grey at the southern entrance to Burrard Inlet, British Columbia; thence in a straight line to the southern end of Gabriola Island; thence to the southern side of the entrance to Boat Harbor, Vancouver Island; thence following the eastern and southern shores of the said Vancouver Island to the starting point at Carmanagh Lighthouse, as shown on the United States Coast and Geodetic Survey Chart No. 6300, as corrected to July 20, 1918, and also the Fraser River and its tributaries.

SEC. 2. Interpretations:

"Drift net" shall mean a floating gill net that is neither anchored nor staked, but that floats freely with the tide or current.

"Trap net" shall include a pound net.

"Commission" shall mean the International Fisheries Commission appointed under the treaty to which these regulations are appended.

"Treaty waters" shall mean all waters described in SECTION 1 hereof.

SEC. 3. (a) Fishing for sockeye salmon in the treaty waters within the territorial limits of the State of Washington shall not be permissible except under license from such State, and in the treaty waters of Canada except under license under the provisions of the fisheries act of Canada.

(b) No greater number of licenses for any class of fishing appliance shall be authorized in any year in the treaty waters within the territorial limits of the State of Washington than were issued for such class for the season of 1918, up to August 31, inclusive, thereof, and in the treaty waters of British Columbia the number of gill nets that may be licensed in any year shall not exceed 1,800.

(c) No license shall be granted to any person, company, or firm in the State of Washington, unless such person is an American citizen, resident in the said State, or to such company or firm, unless it is an American company or firm or is authorized to do business in the said State, and no licenses shall be granted to any person, company, or firm in the Province of British Columbia unless such person is a British subject resident in the said Province, or such company or firm unless it is a Canadian company or firm, or is licensed to do business in the said Province of British Columbia.

(d) No one other than a British subject who owns or leases land on either side of the Fraser River above New Westminster Bridge, and who actually permanently resides on and is cultivating such land, shall be eligible for a license to fish for sockeye salmon between New Westminster Bridge and Mission Bridge, but fishing under such license shall not be carried on below New Westminster Bridge.

SEC. 4. The use of nets other than drift nets, purse seines, and trap nets shall not be permitted in treaty waters for the capture of sockeye salmon.

SEC. 5. No net fishing or fishing of any kind, other than with hook and line, excepting for hatchery purposes or scientific purposes, shall be permissible in the Fraser River above the down-river side of Mission Bridge.

SEC. 6. During the years 1919 to 1926, both years, inclusive, no one shall fish for, catch, or kill any salmon from the 20th day of July to the 31st day of

July in each year, both days inclusive; and during this close time no nets or appliances of any kind that will capture salmon may be used in these treaty waters: *Provided, however,* That salmon fishing for hatchery or scientific purposes may be authorized during this period.

SEC. 7. The weekly close time for salmon fishing shall be from 6 o'clock a. m. Saturday to 6 o'clock p. m. Sunday, in Canadian waters, excepting in that portion of the Fraser River between New Westminster Bridge and Mission Bridge, where the weekly close time shall be from 6 o'clock a. m. Saturday to 6 o'clock p. m. on the following Monday, and in United States waters from Friday at 4 o'clock p. m. to Sunday at 4 o'clock a. m., and during this close time no salmon fishing of any kind, other than for hatchery or scientific purposes, shall be permissible, and during the full period of each weekly close time or annual close season each trap net shall be closed by an apron placed across the outer entrance to the heart of the trap, which apron shall extend from the surface to the bottom of the water and shall be securely connected to the piles on either side of the heart of the trap net, fastened by rings not more than 2 feet apart on taut wires stretched from the top to the bottom of the piles, and such apron, or the appliance by which it is raised and lowered, shall be provided with a signal or flag, which shall disclose whether the trap net is closed, and which shall be of the form and character approved by the commission: *Provided,* That in addition to the foregoing requirement, such trap net shall be equipped with a V-shaped opening, to the satisfaction of the commission, in the lead of such trap net next to the entrance to the heart and immediately adjacent to the apron, of at least 10 feet in width at the top and extending below the surface at least 4 feet below low water, which V-shaped opening shall remain open and unobstructed during the full period of each weekly close time or annual close season.

For the purpose of securing full compliance with this regulation the owner or operator of each trap net shall constantly maintain during the weekly and annual close times a watchman, whose duty it shall be to cause each trap net to be kept closed and the lead to be kept open, as above provided.

SEC. 8. All salmon trap nets shall be limited to a total length of 2,500 feet, with an end passageway of at least 600 feet between one trap net and the next in linear series, such distances being measured in continuation of the line of direction of the leader of such trap net, but in no instance shall more than two-thirds of the width of any passageway at any point be closed by trap nets. There shall also be a lateral distance of at least 2,400 feet between one trap net and the next.

SEC. 9. A salmon purse seine shall not exceed 1,900 linear feet in length, including the lead and attachment, measured on the cork line when wet.

SEC. 10. (a) No purse seine shall be cast or placed in the water for fishing purposes within 2,400 feet of any trap net.

(b) The use of purse seines for the capture of sockeye salmon shall be confined to the treaty waters southward and westward of a straight line drawn from the lighthouse on Trial Island, British Columbia, to the northwest point of Whidbey Island, State of Washington.

SEC. 11. A salmon drift net shall not exceed 900 linear feet in length, and the vertical breadth thereof shall not exceed 60 meshes, and the size of the mesh shall not be less than 5 $\frac{3}{4}$ inches, extension measure, when in use.

SEC. 12. Any violation of these regulations in the treaty waters within the territorial limits of the State of Washington or within the treaty waters of Canada shall be punishable by the imposition of appropriate penalties to be provided by legislation in each country.

EXHIBIT P

RESOLUTION PREPARED BY DOCTOR SMITH AND MR. FOUND RELATIVE TO HALIBUT FISHING

WHEREAS the intensive fishing for halibut that has gone on for years on the halibut banks of the Pacific off the coasts of Canada and the United States has resulted in such serious depletion of the fishery on all but the far-northern banks as to threaten its commercial extinction; and

WHEREAS all the halibut banks are inhabited by several other kinds of highly edible fish which are caught frequently in as large or even larger quantities than halibut on the halibut fishing gear, but which fish have in past

years been altogether or largely thrown away as caught, on account of little or no market existing therefor; and

WHEREAS these fish can be produced and placed on the markets at vastly cheaper prices than halibut, so that it is in the public interest that a general demand therefor should be worked up and fishing for such fish as an industry encouraged, thus lessening the pressure on the halibut fishery; and

WHEREAS in the light of the investigations into the life history of the halibut that have been carried on up to this time, the most feasible method of adequately protecting the halibut fishery appears to be to divide the waters off the coasts of the United States and Canada into defined areas and prohibit all fishing for halibut in one area or several such areas for a sufficient number of years to enable the immature halibut therein to reach maturity, and then open such areas to halibut fishing for a given number of years and prohibit such fishing on the other areas, and so on; and

WHEREAS the effect of such method of protecting the halibut would be to prevent fishing for the different kinds of "cod" and other edible fish on such areas during the time that halibut fishing thereon would be prohibited, as the gear used to catch such fish would also capture halibut, and thus retard the development of such fisheries which might otherwise in a few years be of even more economic value to the general public of both countries than the halibut: Therefore

Resolved. That in the opinion of this conference it would be best for the respective Governments to have exhaustive scientific investigations continue into the natural history of the halibut, in order to determine if there is any method of properly protecting it without unduly restricting or retarding the development of other important fisheries, and that meantime and forthwith each Government exert every feasible effort to create a sufficient demand for the different kinds of "cod", flounders, and other edible fish not only to take care of the species thereof now being caught by the halibut fishermen, but also to encourage the catching of these fish as a separate industry, and it is so recommended.

GUATEMALA

THE EARTHQUAKE IN GUATEMALA CITY¹

File No. 814.48/39

The Chargé in Guatemala (Thurston) to the Secretary of State

GUATEMALA, January 2, 1918.

SIR: I have the honor to submit herewith a brief narrative covering the recent disaster suffered by Guatemala City:

At half past ten o'clock Christmas night this city was shattered by a violent earthquake. The destruction was great. At the time I was in the British Legation, but, although the shock was rather terrifying and greatly damaged the Legation building, all of us who were in it escaped unharmed. The British Minister, his Secretary, the Chilean Minister, and their wives and children all are living in the gardens of the British Legation.

Upon my arrival at our Legation—a 20-minute journey during which the shocks were incessant—I found everything to be in good condition and I then went to the Consulate, a massive two-story building. This had suffered extensively, and is now almost demolished. The Consul and his wife and the Vice Consul were not occupying the Consular premises and, although the houses in which they lived were greatly damaged, they also were unharmed.

After offering the hospitality of the Legation *patio* to some American families whose houses had been destroyed, I spent some hours inspecting the city, and witnessed the gradual and pitiless demolition of a great number of buildings. (A decidedly noticeable quake has just taken place, 12.45 a. m., January 3, 1918.) The remainder of that night was passed in the *patio* where, by moonlight, I framed my first cablegram to the Department. The sending of this message presented difficulties, since the cable, the telegraph, and the wireless stations were all out of commission. Mr. Clark, the general manager of the railways, accepted the message, however, and when his damaged line was repaired, my cable went over it toward the west coast as far as Escuintla, and from Escuintla to San José, the cable port, on a handcar.

Up to the present time I have remained practically without communication with the Department, for the cable is utterly unreliable, and the wireless does not seem to bring me any replies to my messages. One of your few messages to me has been received four

¹ Continued from *Foreign Relations*, 1917, pp. 754-759.

times; I am anxiously awaiting its next appearance. My personal belief is that a most ineffective attempt at censorship is being made by the Government.

The next morning, December 26, 1917, I interviewed President Manuel Estrada Cabrera at "La Palma", his suburban residence. His Excellency received me in the garden near his office quarters, which had been entirely ruined the night before. (Another shock, 12.55 a. m.) My visit seemed to please the President very much and he was apparently greatly moved when I presented the condolences which I assured him would undoubtedly be repeated by my Government when communication was again established. I then proffered my services for the organization and operation of relief measures, and departed. Since then I have twice conferred with the President, laying before him plans for the sanitation of the city, distribution of food, and the sheltering of the homeless—and some of my suggestions have been put into operation. Mr. Alfred Clark, upon the request of the Red Cross of Washington, D. C., addressed the President requesting information as to the aid desired from the Red Cross, and has transmitted the desired data to that institution.

The relief measures, and the organization of a local Red Cross relief committee, will form the subject of a later despatch.

As to the effects of the earthquakes:

The death toll was very small—possibly 100 during eight days of continuous earthquakes, and possibly even fewer. (The third earthquake since beginning to typewrite this despatch has just occurred, 1 a. m.) The material losses, however, are enormous. The accepted estimate places the destruction suffered by the city at 50 per cent of all structures; of the remaining 50 per cent it is estimated that the far greater proportion of the buildings are unfit for habitation. I have taken and will transmit to the Department when possible a number of photographs of the more striking scenes of destruction. Briefly summarized, it can be said that all municipal buildings, nearly all churches, the theaters, hotels, banks, the railroad station, and nearly all of the private residences, are in a state of partial or total ruin. I believe that not a building has entirely escaped. Among these is the Legation which, with a few dangerous cracks in the outer walls, and minus its flagstaff, cornices, some tiled roofing and a great deal of plaster, stands as one of the least damaged buildings in the city. Certain simple repairs will make it quite safe again, but for the present it is unsafe to remain inside of the residence quarters. The office quarters seem quite safe, and I have turned over a portion of them to the Consul.

The city is under martial law, and there have been no disturbances. A young American was taken up by soldiers and marched to the San José fort in this city because he had displayed a pistol. He was released immediately upon my verbal request.

As reported by radio yesterday, I have, for the convenience of the American colony, and in view of the fact that the post office is destroyed, and the temporary arrangement made by the Government for the handling of mail matter being considered unsatisfactory, accepted open letters, in English, and addressed to people in the United States, for transmission by the mail pouch. I have informed all who have entrusted their letters to me that neither the Department nor

myself would assume responsibility for the contents. I also informed them their letters would very likely be strictly censored.

Another departure from the customary routine has been made necessary by the present situation. Due to the general destruction, applicants for passports are unable to secure photographs, in view of which circumstance I am issuing emergency passports without the bearer's photograph. I am placing a low time limit for the expiration of these passports, also, which is generally 30 days.

Finally, I have taken from local bankers \$1,500 United States currency and 35,000 pesos Guatemalan currency, with which I have conducted a small banking business for such members of the American colony as were embarrassed. All these measures have been of great convenience to a greatly distressed people during very trying conditions, and, while I realize I may not have held authorization for my actions, I trust the Department does not disapprove of them.

I have [etc.]

WALTER C. THURSTON

File No. 814.48/32

The Chargé in Guatemala (Thurston) to the Secretary of State

[Telegram]

GUATEMALA, January 13, 1918, 9 p. m.

There will be at least 20 destitute Americans for refugee vessels. What will be done for them upon arrival United States? Many live in interior states.

THURSTON

File No. 814.48/38

The Chargé in Guatemala (Thurston) to the Secretary of State

[Telegram]

GUATEMALA, January 16, 1918, midnight.

Earthquakes continue moderately heavy. Please inform Red Cross written account leaves here next Tuesday. Relief work proceeding as quickly as conditions here allow. All supplies now discharged and being brought to this city. Commission from Panama very efficient.

THURSTON

File No. 814.48/32

*The Acting Secretary of State to the Chargé in Guatemala
(Thurston)*

[Telegram]

WASHINGTON, January 19, 1918.

Your January 13. You are authorized to arrange for the transportation of the destitute Americans therein mentioned, at a cost not exceeding \$100 each, on a merchant vessel. The American Red Cross will take over their transportation from United States port to their homes. Issue identification certificate to each person for guidance Red Cross.

POLK

File No. 814.48/39

*The Acting Secretary of State to the Chargé in Guatemala
(Thurston)*

WASHINGTON, January 24, 1918.

SIR: The Department has received your unnumbered despatch of January 2, in regard to the recent earthquakes in Guatemala, and commends your activity in immediately communicating this Government's condolences to the President of Guatemala and in furnishing Americans with shelter, financial assistance, short-term emergency passports, and the use of the Legation's mail pouch.

I am [etc.]

FRANK L. POLK

File No. 814.48/56

The Chargé in Guatemala (Thurston) to the Secretary of State

[Telegram]

GUATEMALA, February 1, 1918, 9 p. m.

Earthquakes continue. Am informed by native doctor there are 20 new cases of typhus fever past two days. Water question remains dangerous. Mr. Heald and companions have returned to Panama after rendering splendid service. O'Connor and Stuart here. Railroad communication with Barrios interrupted by earthquake 24th January, will be restored to-morrow.

THURSTON

File No. 814.48/65

The Minister in Guatemala (Leavell) to the Secretary of State

[Telegram]

GUATEMALA, February 13, 1918, noon.

Joint Committee of American and Guatemalan Red Cross are endeavoring to arrange program of operations to clean city of filth which the President promises put through. Unless this is done thoroughly and promptly, disastrous epidemics are inevitable, for all open spaces are jammed and the people are without necessary conveniences.

LEAVELL

File No. 814.48/77a

The Secretary of State to the Minister in Guatemala (Leavell)

[Telegram]

WASHINGTON, March 19, 1918, 5 p. m.

At the request of the Red Cross you are instructed to communicate the following to Alfred Clark of Red Cross:

The American Red Cross refers to its cable of December 30 stating public opinion here clearly requires its expenditures be principally for war relief in America and France. Its expenditures and obligations on account of the

Guatemalan relief now amount to \$150,000. All this gladly given to meet emergent needs and to build foundation necessary for continuing undertakings for health of homeless population and rehabilitation of city. Red Cross regards such expenditures for such purposes and the services of its trained personnel as its appropriate contribution, but as matter of sound policy and because of its primary war obligations it can not reasonably devote more than an additional \$50,000 to this relief work, at least on the basis of its present information and recommendations received from its committee in Guatemala. Red Cross aware of plans for temporary water supply, and willing to send two chlorination plants as requested when the necessary piping is ordered by the Guatemalan Government and shipped. Red Cross will assist secure priority shipment piping. Red Cross aware also danger epidemic typhus and need of hospital facilities and willing assist assembling material and personnel for hospital and make modest contribution toward hospital equipment particularly for such special things as Doctor Struse may think desirable under circumstances. Red Cross however holds strong opinion that sanitary control and other arrangements and equipment essential safety and health of citizens are primary responsibility Guatemalan Government and that Red Cross's financial assistance and services should be of kind which that Government is not able to provide. Red Cross solicitous that its plans and policies as stated above be made fully known to Guatemalan Government firmly and yet so reasonably that gracious acquiescence be assured. This desirable for sake expediting Guatemalan Government's action and avoiding any possible misconception and consequent disappointment as to Red Cross's purposes.

You will also lend the support of this Government to the above statement of the Red Cross which is auxiliary to the American Government.

In addition, you will inform Mr. Clark that Red Cross advises him that it has sent all personnel and articles requested by Clark in his cables December 28, January 31, February 9, February 18, March 4, and articles requested by Doctor Struse, Clark's cable March 11. Red Cross requests acknowledge receipt all above which have thus far arrived at Guatemala. Red Cross desires Clark report through Legation probable date when Red Cross relief administration may cease and personnel sent from United States may return.

LANSING

File No. 814.48/78

The Minister in Guatemala (Leavell) to the Secretary of State

[Telegram]

GUATEMALA, March 23, 1918, noon.

Your March 19, 9 [5] p. m. Alfred Clark reports a most satisfactory interview with the President who expressed his high appreciation of the very splendid service rendered by the American Red Cross to the people and Government of Guatemala in their calamity and declared that he realizes the impossibility of continuing this generous help indefinitely, as well as the fact that continuing much longer to provide free rations will prove hurtful to the labor of the country, and that immediately after Holy Week he will take up with his proper advisers the matter of setting a date for the withdrawal of the American Red Cross. The first of May as an approximate date to be fixed was discreetly suggested by Mr. Clark, who asks me to say also that formal acknowledgment will be made of everything that has been received and that soon after the departure of the American Red Cross contingent he will send up to headquarters an itemized statement covering all transactions. I will go

over the situation with President Cabrera as soon as practicable, and in the meantime I have advised that preparations for an early departure be quietly begun.

LEAVELL

File No. 814.48/104a

The Secretary of State to the Minister in Guatemala (Leavell)

[Telegram]

WASHINGTON, May 24, 1918, 6 p. m.

For Red Cross:

American Red Cross requests that you be advised that for important reasons it desires that its relief committee conclude their work and American personnel return to the United States on June 1. Red Cross desires you to inform immediately all concerned and to express to Government sincere appreciation of its cordial attitude toward our workers and splendid cooperation with them.

LANSING

HAITI

CONSTITUTION OF JUNE 12, 1918¹

[Translation]

CONSTITUTION OF THE REPUBLIC OF HAITI

TITLE I.—THE TERRITORY OF THE REPUBLIC

ARTICLE 1. The Republic of Haiti is one and indivisible, free, sovereign and independent.

Its territory, including the islands adjacent thereto, is inviolable and shall not be alienated through any treaty or through any convention.

ART. 2. The territory of the Republic is divided into departments; each department is subdivided into districts (arrondissements); and each district into communes.

The number and the limits of these subdivisions shall be determined by law.

TITLE II.—HAITIANS AND THEIR RIGHTS

SECTION I.—CIVIL AND POLITICAL RIGHTS

ART. 3. The rules governing nationality shall be determined by law.

ART. 4. All foreigners who find themselves on Haitian territory shall enjoy the same protection as that extended to Haitians.

ART. 5. The right to own real estate shall be given to foreigners residing in Haiti and to the societies organized by foreigners for purposes of residence, and agricultural, commercial, industrial or educational enterprises.

This right shall cease after a period of five years from the date when the foreigner shall have ceased to reside in the country or the activities of said companies shall have ceased.

ART. 6. Every Haitian citizen over 21 years of age shall be entitled to exercise political rights, if he has the other qualifications required by the Constitution and by law. Foreigners may acquire the Haitian nationality by following the rules established by law. Naturalized Haitians shall be admitted to the exercise of political rights only after five years of residence in the territory of the Republic.

ART. 7. The exercise of political rights shall be suspended by virtue of a judicial condemnation which must have taken place in accordance with the laws of Haiti, carrying with it the suspension of civil rights.

SECTION II.—PUBLIC LAW

ART. 8. Haitians are equal before the law. They shall be equally admissible to civil and military employments, without any reason

¹ The official text was transmitted by the Minister in Haiti in despatch No. 387 of Nov. 29, 1919 (File No. 838.011/68).

for preference other than personal merit or services rendered to the country.

ART. 9. Individual liberty is guaranteed.

No one shall be detained except upon probable cause relating to an act punishable by law and upon the order of a legally competent functionary. For this warrant of arrest to be executed, it shall be necessary:

1. That it state the cause of the arrest and the provision of the law which punishes the imputed act.

2. That notice, together with a copy of the warrant, be given to the accused party at the moment of the arrest.

Except in case of *flagrante delicto*, the arrest shall be executed subject to the forms and conditions above stated.

All arrests and all detentions made in opposition to this provision, and all acts of violence or severity accompanying the arrest are arbitrary acts, against which the aggrieved parties may, without previous authorization, complain before the competent tribunals, and cause the authors or the executors to be prosecuted.

ART. 10. No one shall be tried by other judges than those assigned to him by the Constitution or the law.

ART. 11. Domiciliary visit and seizure of papers shall not be made except by virtue of the law and in the forms provided by it.

ART. 12. No law shall have a retroactive effect.

ART. 13. No penalty shall be established except by law, nor shall and penalty be imposed except in the cases which the law shall determine.

ART. 14. The right of property is guaranteed.

No one shall be deprived of his property except by reason of public utility, and in the cases and in the manner established by law, and upon previous payment of a just indemnity. Property shall not be confiscated for political reasons.

ART. 15. The penalty of death for political offenses is abolished except for the case of treason.

The law shall determine the penalty to be imposed in lieu thereof.

ART. 16. Every one has the right to express his opinions on all matters and to write, print, and publish what he thinks. Writings shall not be submitted to previous censorship. Abuses of this right shall be defined and punished by law, without thereby abridging in any way whatever the freedom of the press.

ART. 17. All forms of worship are equally free.

Every one has the right to profess his religion and freely perform his worship, provided he does not disturb the public order.

ART. 18. Teaching is free.

Freedom of teaching shall be exercised under the control and the supervision of the State in accordance with the law.

Primary instruction shall be compulsory. Public instruction shall be gratuitous in all its grades.

ART. 19. Trial by jury is established in all criminal cases and also for political offenses and offenses committed through the press.

ART. 20. Haitians have the right to assemble peaceably and without arms for discussing any matter, provided they comply with the laws regulating the exercise of this right, but no previous authorization shall be required for this purpose.

This provision shall not be applicable to meetings in public places which shall remain subject in all respects to the police regulations.

ART. 21. Haitians have the right to join and form societies in accordance with the law.

ART. 22. The right of petition shall be personally exercised by one or several individuals, never in the name of a body.

Petitions shall be addressed to the legislative power or to the executive power.

ART. 23. The secrecy of private correspondence entrusted to the mail is inviolable.

The law shall determine who shall be responsible for this violation.

ART. 24. French is the official language. Its employment shall be obligatory in administrative and judicial matters.

ART. 25. No previous authorization shall be required to prosecute public officials for acts done during their administration, except in those cases established by the Constitution.

ART. 26. Nothing shall be added to or taken away from the Constitution by means of law. The letter of the Constitution shall always prevail.

TITLE III.—THE SOVEREIGNTY AND THE POWERS TO WHICH THE EXERCISE THEREOF IS DELEGATED

ART. 27. The national sovereignty resides in the citizens taken as a whole.

ART. 28. The exercise of this sovereignty shall be delegated to three powers: the legislative power, the executive power, and the judicial power.

They shall form the government of the Republic, which is essentially civil, democratic, and representative.

ART. 29. Each power shall be independent of the other two in its attributions which it exercises separately.

None of them shall delegate its faculties, nor go beyond the limits prescribed for it.

ART. 30. Individual responsibility shall be formally attached to all public functions.

The law shall govern the procedure to be followed against public officials for acts done during their administration.

CHAPTER I.—THE LEGISLATIVE POWER

SECTION I.—THE CHAMBER OF DEPUTIES

ART. 31. The legislative power shall be exercised by two assemblies: one Chamber of Deputies and one Senate, which shall form the legislative body.

ART. 32. The number of deputies shall be fixed according to the population, on the basis of one deputy for every 60,000 inhabitants.

While the census of the population is being made, the number of deputies is fixed at 36, apportioned between the arrondissements actually existing, to wit: 3 deputies for the Arrondissement of Port-au-Prince; 2 each for the Arrondissements of Cap-Haïtien, Cayes, Port-de-Paix, Gonaïves, Jérémie, Saint-Marc and Jacmel; and 1 deputy each for the other arrondissements. The deputy shall be

elected by a majority of the votes cast by the primary assemblies of the district in conformity with the manner and the conditions provided by law.

ART. 33. To be a member of the Chamber of Deputies, it shall be necessary:

1. To be over 25 years of age.
2. To be in the enjoyment of civil and political rights.
3. To have resided at least one year in the arrondissement to be represented.

ART. 34. The members of the Chamber of Deputies shall be elected for two years, and may be reelected indefinitely. They shall begin to discharge their office the first Monday of April of even numbered years.

ART. 35. In case of vacancy by reason of death, resignation, disqualification of a deputy, or for any other cause, provision shall be made for a successor in his electoral district, only for the remainder of his term, by a special election called immediately by the President of the Republic.

This election shall take place within a period of 30 days after the convocation of the primary assembly, in accordance with Article 107 of the present Constitution.

The same procedure shall take place in case of non-election in one or several districts.

SECTION II.—THE SENATE

ART. 36. The Senate shall consist of 15 Senators.

Their functions shall last six years and shall begin the first Monday of April of even numbered years.

They may be reelected indefinitely.

ART. 37. The Senators represent the departments, which are five in number, to wit:

Four senators for the Department of the West.

Three each for the Departments of the North, South and the Artibonite.

Two for the Department of the Northwest.

Senators shall be elected by universal and direct suffrage in the primary assemblies of the several departments in accordance with the manner and the conditions prescribed by law.

Those candidates shall be elected who shall have obtained the highest number of votes in the departments.

In the first election after the adoption of the present Constitution, these elections shall take place in the following manner:

In each department the candidate who shall have obtained the highest number of votes shall be elected senator for this department for a period of six years; the candidate who shall have obtained the next highest number of votes shall be elected for a period of four years.

In each of the Departments of the North, of the South and of the Artibonite, the candidate who shall have obtained the third highest number of votes, and, in the Department of the West, the candidates

who shall have obtained the third and fourth highest number of votes, shall be elected for a period of two years.

In the following and in the regular elections, the candidates who shall have obtained the highest number of votes in the several departments shall be elected for the entire period of six years.

The Senate shall be renewed by thirds every two years.

ART. 38. To be elected senator, it shall be necessary:

To be over 30 years of age.

To be in the enjoyment of civil and political rights.

To have resided at least two years in the department to be represented.

ART. 39. In case of vacancy by reason of death, resignation, disqualification of a senator, or any other cause, provision shall be made for a successor in his department only for the remainder of his term, by a special election called immediately by the President of the Republic.

This election shall take place within a period of 30 days after the convocation of the primary assembly, in accordance with Article 107 of the present Constitution.

The same procedure shall take place in case of non-election in one or several departments.

SECTION III.—THE NATIONAL ASSEMBLY

ART. 40. The two houses shall meet in National Assembly, in the cases provided for by the Constitution.

The powers of the National Assembly shall be limited and shall not be extended to any other purposes than those which are specially assigned to it by the Constitution.

ART. 41. The president of the Senate shall preside over the National Assembly, the president of the Chamber of Commons shall be the vice-president of it, and the secretaries of the Senate and of the Chamber of Commons shall be the secretaries of the National Assembly.

ART. 42. The attributions of the National Assembly shall be:

1. To elect the President of the Republic and to administer to him the constitutional oath.
2. To declare war, upon the report of the executive power.
3. To approve or to reject treaties of peace and other international treaties and conventions.

ART. 43. In the years of regular presidential elections, the National Assembly shall proceed to the election of the President of the Republic on the second Monday in April and shall not undertake any other work, remaining in permanent session except on Sundays and holidays, until the President shall have been elected.

ART. 44. The election of the President of the Republic shall be made by secret ballot and by an absolute majority.

If, after the first ballot, no candidate has secured the number of votes required for his election, a second ballot shall be taken. If on this second ballot no candidate is elected, the election shall be concentrated on the three candidates who have obtained the highest

number of votes. If after three ballots none of the three has been elected, the balloting shall be between the two who have received the greatest number of votes, and the one who secures the majority of votes cast shall be proclaimed President of the Republic.

If the votes of the two candidates are equally divided, the election shall be decided by lot.

ART. 45. In case of vacancy of the office of President, the National Assembly must convene within ten days, with or without convocation of the Council of the Secretaries of the State.

ART. 46. The meetings of the National Assembly shall be public. Nevertheless, it may resolve itself into a secret committee at the request of five members and decide thereafter by an absolute majority whether or not the meeting should continue to be held in public.

ART. 47. In case of urgency at a time when the legislative body is not in session, the executive power may convene the National Assembly in extra session.

He shall communicate to the National Assembly, through a written message, the reasons for this convocation.

ART. 48. The presence in the National Assembly of a majority of each of the two houses is necessary to pass its resolutions; but a minority may adjourn from day to day in order to compel the absent members to attend the meeting, according to the manner and under the penalties which the National Assembly may prescribe.

CHAPTER II

SECTION I.—THE EXERCISE OF THE LEGISLATIVE POWER

ART. 49. The seat of the legislative body shall be in the capital of the Republic.

ART. 50. The legislative body shall meet each year, without need of expressed convocation, on the first Monday of April.

The session shall begin from the date when the bureaux¹ of the two houses are established.

The session shall last three months. In case of necessity, this period may be extended to four months by the executive power or by the legislative body.

The President of the Republic may adjourn the houses. But the adjournment shall not last over one month, and more than two adjournments shall not take place during the course of the same session.

ART. 51. In the interval between sessions, and in case of urgency, the President of the Republic shall call the legislative body to meet in extra session.

He shall explain to them, by means of a message, the reason for this measure.

In the case of being called to meet in extra session, the legislative body shall not take up any other matters foreign to those for which it has been convened.

ART. 52. Each house shall be the judge of the election of its members and shall decide absolutely the contests which may arise on the subject.

¹That is, the officers and clerks necessary for the conduct of business.

ART. 53. The members of each house shall individually take the oath to maintain the rights of the people and to be faithful to the Constitution.

ART. 54. The meetings of the two houses shall be public.

Each house may resolve itself into a secret committee at the request of five members and decide thereafter by an absolute majority whether or not the meeting should continue to be held in public in regard to the same subject.

ART. 55. The legislative power shall make the laws on all subjects of public interest.

The initiative [of the legislation] shall belong to each one of the two houses as well as to the executive power.

Nevertheless, the budgetary law, the law concerning the assessment, distribution, and manner of collection of taxes and contributions, the laws having for their object the creation of revenue or increase of the expenses of the State shall be first voted by the Chamber of Deputies.

In case of disagreement between the two houses in regard to these laws, each house shall draw by lot an equal number of members to form an interparliamentary commission which shall decide the disagreement with finality.

The executive power has the exclusive right to take the initiative with laws regarding the public expenses; and neither of the two houses has the right to increase in whole or in part the expenses proposed by the executive power.

ART. 56. Each house, by its own rules, shall establish its discipline and determine the method under which it shall exercise its attributions.

Each house may impose disciplinary penalties upon its members for reprehensible conduct and may expel a member by the vote of a majority of two-thirds of its members.

ART. 57. The members of the legislative body, except in case of *flagrante delicto*, of treason or acts entailing a corporal or ignominious punishment, shall not be prosecuted or arrested by way of repression during the length of the session without the authorization of the house to which they belong.

In no case shall they be arrested while they are attending a meeting of their house or while they are on their way to and from it.

ART. 58. Neither of the two houses shall adopt any resolutions without the presence of an absolute majority of its members; however, a lesser number of members may adjourn from day to day and compel the absent members to attend the meeting according to the manner and under the penalties which each house may prescribe.

ART. 59. No act of the legislative body shall be passed except by a number of votes equal to or greater than the majority of the members present, except when otherwise provided for by the present Constitution.

ART. 60. No bill shall be adopted by either of the two houses without having been voted article by article.

ART. 61. Each house shall have the right to amend and revise the articles and amendments proposed. The amendments voted by one house shall not be made a part of a bill until they have been voted on by the other house; and no bill shall be enacted into law until

after it has been voted on in the same form by the two houses. Any bill may be withdrawn before said bill is definitively voted upon.

ART. 62. Every law passed by the legislative body shall be immediately sent to the President of the Republic, who, before promulgating it, has the right to make objections thereto, in whole or in part.

In this case he shall return the law to the house in which it originated, together with his objections. If the law is amended by this house, it shall be sent to the other house, together with the objections. If the law thus amended is passed by the second house, it shall be sent again to the President to be promulgated.

If the objections are rejected by the house which originally passed the bill, it shall be sent to the other house, together with the objections.

If the second house likewise votes to reject these objections, the law shall be sent to the President, who shall then be obliged to promulgate it.

The rejection of the objections shall be voted in both houses by a majority of two-thirds of each house; in this case the vote of each house shall be by yeas and nays and shall be noted down in the margin of the minutes beside the name of each member of the Assembly.

If two thirds of either house shall not meet to consider the rejection of the objections, said objections shall be accepted.

ART. 63. The right to object should be exercised within eight days from the date of the presentation of the law to the President, exclusive of Sundays and days of adjournment of the legislative body, in accordance with Article 50 of the present Constitution.

ART. 64. If, within the period prescribed by the preceding article, the President of the Republic does not make any objection, the law shall be promulgated, unless the session of the legislative body shall have closed before the expiration of that period. In this case the law shall be held in abeyance.

ART. 65. A bill rejected by one of the two houses shall not be reintroduced during the same session.

ART. 66. The laws and other acts of the legislative body shall become official through the *Moniteur* and shall be inserted in the bulletin printed and numbered under the title, *Bulletin des Lois*.

ART. 67. The law shall take its date from the day of its definitive adoption by the two houses; but no laws shall become obligatory until after their promulgation, which is to be made according to law.

ART. 68. No one shall personally present petitions to the legislative body.

ART. 69. Each member of the legislative body shall receive a monthly indemnity of one hundred and fifty dollars, beginning from his taking of the oath.

ART. 70. The office of member of the legislative body is incompatible with any other office under the pay of the State.

CHAPTER III.—THE EXECUTIVE POWER

SECTION I.—THE PRESIDENT OF THE REPUBLIC

ART. 71. The executive power shall be exercised by a citizen who shall take the title of President of the Republic.

ART. 72. The President of the Republic shall be elected for four years.

He shall enter upon his duties on May 15, except when he has been elected to fill a vacancy; in this case he shall be elected for the remainder of the term and he shall enter upon his duties immediately after his election.

The President shall be eligible for immediate reelection. A President who has been reelected shall not be elected for a third term unless after the expiration of a period of four years.

A citizen who has been elected President three times shall not be eligible for that office.

ART. 73. To be elected President of the Republic, it shall be necessary:

1. To have been born of a Haitian father and never to have renounced his nationality.
2. To be over 40 years of age.
3. To be in the enjoyment of civil and political rights.

ART. 74. The President shall, before entering upon his duties, take before the National Assembly the following oath:

I swear before God and before the nation to observe and cause to be observed faithfully the Constitution and the laws of the Haitian people, to respect the rights of the latter, to maintain the national independence and the integrity of the territory.

ART. 75. The President of the Republic shall appoint and remove the secretaries of State.

He shall be charged with seeing to the execution of the treaties of the Republic.

He shall seal the laws with the seal of the Republic and shall promulgate them within the time prescribed by Articles 62, 63, and 64.

He shall be charged with the enforcing of the Constitution and the laws, acts, and decrees of the legislative body and of the National Assembly.

He shall issue all the regulations and decrees necessary for this purpose, without, however, the power to suspend or interpret the laws, acts, and decrees themselves or to interfere with their enforcement.

He shall make appointments to public offices and positions, only by virtue of the Constitution or of some express provision of a law and under the conditions therein prescribed.

He shall provide according to law for the internal and external safety of the State.

He shall make all international treaties or conventions, subject to the approval of the National Assembly.

He shall have the right to grant pardons and commutation of punishment imposed by final judgments rendered in actual trial, except in cases of impeachment by the courts or by the Chamber of Deputies, as is provided in Articles 100 and 101 of the present Constitution.

He shall grant amnesty in political matters according to the provisions of the law.

He shall command and direct the armed forces of the Republic and shall confer the grades according to the law.

He shall have power to demand a written report from the chief official of each of the ministerial departments on any subject relating to the conduct of their respective departments.

ART. 76. If the President shall become temporarily unable to exercise his functions, the Council of the Secretaries of State shall be charged with the executive authority so long as the disability exists.

ART. 77. In case of vacancy of the office of President, the Council of the Secretaries of State shall be vested temporarily with the executive power.

It shall immediately convene the National Assembly for the election of a successor for the remainder of the presidential term.

If the legislative body is in session, the National Assembly shall be convened without delay. If the legislative body is not in session, the National Assembly shall be called in accordance with Article 45.

ART. 78. All the acts of the President, except the decrees appointing or removing from office the secretaries of State, shall be countersigned by the secretary of State in charge of the matter concerned.

ART. 79. The President shall have no other powers than those formally attributed him by the Constitution and the special laws enacted by virtue of the Constitution.

ART. 80. At the opening of each session the President, by means of a message, shall render to each of the two houses separately an account of his administration during the year and shall present the general situation of the Republic both at home and abroad.

ART. 81. The President of the Republic shall receive from the public treasury an annual indemnity of twenty-four thousand dollars.

ART. 82. The President shall reside in the National Palace of the capital.

SECTION II.—THE SECRETARIES OF STATE

ART. 83. The Secretaries of State shall be five in number. They shall be distributed among the different ministerial departments as the services of the State may require.

A decree shall determine this distribution in accordance with the law.

ART. 84. To be appointed secretary of State, it shall be necessary:

1. To be over 30 years of age.
2. To be in the enjoyment of civil and political rights.

ART. 85. The secretaries of State shall meet in Council under the presidency of the President of the Republic or of any one of them delegated by the President.

All deliberations of the Council shall be recorded in a book; and the minutes of each session shall be signed by the members of the Council present thereat.

ART. 86. The secretaries of State shall have the right to the floor of each of the two houses as well as to that of the National Assembly, but only to discuss the bills proposed by the executive power and to support its objections or to make any other official communication.

ART. 87. The secretaries of State shall be responsible, each in that which concerns him, both for the acts of their department and for the non-execution of laws relating thereto.

They shall correspond directly with the authorities subordinate to them.

ART. 88. Each secretary of State shall receive from the public treasury an annual indemnity of six thousand dollars.

CHAPTER III [BIS].—THE JUDICIAL POWER¹

ART. 89. The judicial power shall be exercised by a Court of Cassation and by inferior courts, the formation and jurisdiction of which shall be established by law.

ART. 90. The judges of all the courts shall be appointed by the President of the Republic.

He shall appoint and remove the officials of the public ministry at the Court of Cassation and the other courts, justices of the peace, and their substitutes.

ART. 91. No one shall be appointed judge or officer of the public ministry who is not over 30 years of age, for the Court of Cassation, or over 25 years, for the other courts.

ART. 92. The Court of Cassation shall take no cognizance of the subject-matter of cases. Nevertheless, in all matters, except such as have been passed upon by jury, when the same case shall be presented again by the same parties upon an appeal, even upon an exception, the Court of Cassation, admitting the appeal, shall not remand the case, but shall pass a decision upon the subject matter, in full bench.

ART. 93. The judges of the Court of Cassation, the judges of the courts of appeal and of first instance shall enjoy irremovability.

The law shall regulate the conditions upon which they shall cease to enjoy the privilege of irremovability and the manner of their retirement on account of age or any other disability or by reason of the suppression of the court.

They shall not be transferred from one court to another or entrusted with other functions, even if superior, without their formal consent.

ART. 94. Judicial functions are incompatible with all other salaried public functions.

Incompatibility resulting from relationship or marriage shall be regulated by law.

The law shall also regulate the conditions required to be a judge of any rank.

ART. 95. Commercial litigation shall be submitted to the courts of the first instance and the justices of the peace, in accordance with the Code of Commerce.

ART. 96. The sittings of the courts shall be public, unless it is deemed that publicity is detrimental to public order or good morals; in this case a declaration to that effect shall be made by the court.

The hearing in cases of political offenses or of offenses committed through the press shall never be secret.

ART. 97. Every decree or decision shall state the grounds upon which it is rendered; it shall be rendered in open court.

¹ This repetition in the numbering of the chapters is obviously a typographical error.

ART. 98. The Court of Cassation shall take cognizance and pronounce upon conflicts of attributions in the manner established by law.

It shall be competent in all cases decided by a court martial and brought before it on the ground of lack of competence or excess of jurisdiction of that court.

ART. 99. The Court of Cassation, in full bench, shall decide upon the constitutionality of the laws.

The courts should refuse to apply all those laws which have been declared unconstitutional by the Court of Cassation.

They shall not apply the decrees and regulations of the administration which are not in accordance with the law.

CHAPTER IV.—THE PROSECUTION AGAINST THE MEMBERS OF THE STATE POWERS

ART. 100. The Chamber of Deputies has the right to impeach the President and indict him before the Senate for high treason or any other crime or offense committed by him in the exercise of his functions.

It may also impeach:

1. The secretaries of State in case of malversation, treason, abuse or excess of their powers, or any other crime or offense committed in the exercise of their functions.

2. The members of the Court of Cassation, of one of its sections or of any officer of the public ministry connected with the Court of Cassation, in case of prevarication.

The impeachment shall not be pronounced except by a majority of two-thirds of the members of the Chamber. By virtue thereof, the Chamber indicts the accused before the Senate sitting as a High Court of Justice. At the opening of the hearing each member of the High Court of Justice shall take oath to judge with impartiality and firmness proper to an honest and free man, following his conscience and his intimate conviction.

When the President of the Republic is on trial, the president of the Court of Cassation shall preside.

The High Court of Justice shall not impose any other penalty than deposition, dismissal and deprivation of the right to exercise any public function for not less than one year nor more than five years; but the guilty party may be indicted before the ordinary courts in accordance with the law, if there is reason for imposing other penalties or deciding upon the institution of civil proceedings.

No one shall be tried or sentenced except by a majority of two-thirds of the members of the Senate.

The time fixed for the duration of the session of the legislative body in Article 50 of the present Constitution shall not serve to put an end to the prosecution, when the Senate is sitting as a High Court of Justice.

ART. 101. In case of prevarication, any judge or official of the public ministry shall be impeached by one of the sections of the Court of Cassation.

In case of a whole court, the impeachment shall be pronounced by the Court of Cassation, in full bench.

ART. 102. The law shall regulate the mode of procedure against the President of the Republic, the secretaries of State and the judges in the case of crimes or offenses committed by them either in the exercise of their functions or outside thereof.

CHAPTER IV [BIS].—COMMUNAL INSTITUTIONS

ART. 103. There shall be one council for each commune.

The president of the communal council has the title of communal magistrate.

This institution shall be regulated by law.

The law shall determine in the communes or in the arrondissements the civil officials who shall represent directly the executive power.

ART. 104. The following principles must form the bases of the communal institutions:

1. The election by the primary assemblies of the communal councils every two years.

2. The attribution to the communal councils of all that may be of interest to the commune, subject, however, to subsequent approval of their acts in the cases and in the manner determined by law.

3. The publicity of the meetings of the councils within the limits established by law.

4. The publicity of budgets and accounts.

5. The intervention of the executive power to prevent the councils from going beyond their attributions and doing injury to the general interests.

ART. 105. The communal magistrates shall be paid by their commune.

ART. 106. The communal council shall not spend every month more than one twelfth of the total amount voted for its budget.

CHAPTER V.—PRIMARY ASSEMBLIES

ART. 107. The primary assemblies shall meet without previous convocation in their respective communes on January 10 of each even-numbered year in the manner and form established by law.

They shall have for their object the election, at the times fixed by the Constitution, of the deputies of the people, the senators of the Republic, the communal councilors, and to decide on the amendments proposed to the Constitution.

They shall not take cognizance of any other matters than those attributed to them by the present Constitution.

They are bound to adjourn *sine die* as soon as this object is accomplished.

ART. 108. The law establishes the conditions required to exercise the right of suffrage in the primary assemblies.

TITLE IV.—FINANCES

ART. 109. The imposts for the benefit of the State and of the communes shall only be established by a law.

No charge shall be levied on the communes except upon the formal consent thereof.

ART. 110. The laws establishing the imposts shall be enforced only for one year.

ART. 111. No distinction in regard to imposts shall ever be made. No exemption, no increase or decrease of imposts shall be made except by a law.

ART. 112. No pension, gratuity, subvention or subsidy of any kind, to be paid by the public treasury, shall be granted except by virtue of a law proposed by the executive power.

ART. 113. The simultaneous holding of offices under the pay of the State is formally prohibited, except positions in secondary or higher education.

ART. 114. The budget submitted by each secretary of State shall be divided into chapters and must be voted by articles.

The shifting of appropriations is forbidden.

The Secretary of State for Finance shall be bound, on his personal responsibility, not to disburse each month, for the benefit of each ministerial department, more than one-twelfth of the amount appropriated in its own budget; an exception may be made for extraordinary cases by decision of the Council of the Secretaries of State.

The general accounts of the receipts and expenditures of the Republic shall be kept by the Secretary of State for Finance under the system of accounting to be established by law.

The fiscal year begins on October 1 and ends on September 30 of the following year.

ART. 115. Every year the legislative body shall settle:

1. The accounts of receipts and expenditures for the preceding year or years.

2. The general budget of the State containing the rough estimate and the portion of the funds assigned annually to each secretary of State. But no resolution or amendment shall be introduced with the budget for the purpose of reducing or increasing the salaries of public officials.

All changes of this nature shall only be effected by an amendment of the law.

ART. 116. The general accounts and the budgets provided for in the preceding article should be submitted to the legislative body by the Secretary of State for Finance at the latest within eight days of the opening of the legislative session.

The examination and the liquidation of the accounts of the general administration and of all accounts against the public treasury shall be made according to the manner established by law.

ART. 117. In case the legislative body, for any reason whatever, should fail to approve the budget of one or more of the ministerial departments before its adjournment, the budget or budgets of the interested departments in force for the current budgetary year shall be maintained for the following budgetary year.

TITLE V.—THE PUBLIC FORCE

ART. 118. An armed force to be known as the *Gendarmerie d'Haïti* shall be established to preserve order, guarantee the rights of the people, and police the cities and the country.

It shall be the only armed force of the Republic.

ART. 119. The regulations for the maintenance of discipline in the Gendarmerie and the repression of the offenses committed by those who compose it shall be established by the executive power. These regulations shall have the force of law.

These regulations shall establish the organization of the courts martial of the Gendarmerie, shall prescribe their powers and shall determine the obligations of their members and the rights of the individuals who are to be judged by them.

The sentences pronounced by courts martial of the Gendarmerie shall be subject only to revision by the Court of Cassation, and this revision shall be confined to questions of jurisdiction and of excess of powers.

TITLE VI.—GENERAL PROVISIONS

ART. 120. The national colors shall be blue and red horizontally placed.

The coat of arms of the Republic shall consist of a palm tree surmounted by a cap of liberty adorned by a trophy with the legend: "*L'Union fait la force.*"

ART. 121. No oath shall be required except by virtue of the Constitution or of a law.

ART. 122. The national holidays shall be: That of the Independence, January 1, and that of Agriculture, May 1.

The legal holidays shall be determined by law.

ART. 123. No law, decree, or rule of the public administration shall be obligatory until it has been published in the form established by law.

ART. 124. All elections shall be made by secret ballot.

ART. 125. The state of siege shall not be declared except where the external or internal security is in imminent peril.

The act of the President of the Republic declaring a state of siege must be countersigned by the majority of the secretaries of State present in the capital.

An account shall be rendered of it at the opening of the houses by the executive power.

ART. 126. The effects of the state of siege shall be regulated by a special law.

ART. 127. The present Constitution and all the treaties actually in force or to be concluded hereafter, and all the laws decreed in accordance with this Constitution or with these treaties, shall constitute the law of the country, and their relative superiority shall be determined by the order in which they are here mentioned.

All the provisions of the laws which are not contrary to the provisions of this Constitution or to the treaties actually in force or to be concluded hereafter, shall be maintained until they have been formally abrogated or amended; but those which are contrary thereto shall be and shall remain abrogated.

TITLE VII.—THE REVISION OF THE CONSTITUTION

ART. 128. The amendments of the Constitution must be adopted by the majority of votes of all the electors of the Republic. Each of the two branches of the legislative power, or the President of the

Republic, through a message to the legislative power, may propose amendments to the present Constitution.

The amendments proposed shall not be subject to popular ratification until after their adoption by a two-thirds majority of each legislative house sitting separately.

These amendments shall then be published immediately in the *Moniteur*.

For three months before voting on the proposed amendments, the texts thereof shall be posted by each communal magistrate in the principal public places of his commune, and shall be printed and published twice a month in the newspapers.

At the next biennial session of the primary assemblies, the proposed amendments shall be submitted to vote, one by one, by yeas and nays, in secret and separate ballot, and those amendments which should have obtained the absolute majority of votes in all the territory of the Republic shall become an integral part of the Constitution from the day on which the legislative body convenes.

SPECIAL ARTICLE

All the acts of the Government of the United States during its military occupation of Haiti are ratified and validated.

A. No Haitian shall be amenable to civil or criminal prosecutions by reason of any act executed by virtue of orders received during the occupation or under its authority.

The acts of the courts martial during the occupation shall not be subject to revision, without prejudice, however, to the right of pardon.

The acts of the executive power performed up to the promulgation of the present Constitution are likewise ratified and validated.

TITLE VIII.—TRANSITORY PROVISIONS

ART. A. The duration of the mandate of the citizen President of the Republic at the moment of the adoption of the present Constitution shall come to an end on May 15, 1922.

ART. B. The duration of the mandate of the communal councilors existing at the time of the adoption of the present Constitution shall come to an end in January 1920.

ART. C. The first election of members of the legislative body after the adoption of the present Constitution shall take place on January 10 of an even-numbered year.

The year shall be fixed by a decree of the President of the Republic published at least three months before the meeting of the primary assemblies.

The session of the legislative body then elected shall convene on the constitutional date immediately following the first election.

ART. D. A Council of State, created in accordance with the same principles as those of the decree of April 5, 1916, and composed of 21 members distributed among the different departments, shall exercise the legislative power until the legislative body is constituted, on which date the Council of State shall cease to exist.

ART. E. The irremovability of judges shall be suspended for a period of six months beginning from the date of the promulgation of the present Constitution.

HONDURAS
BOUNDARY DISPUTE WITH NICARAGUA
(See pages 11-34)

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JAPAN

ATTITUDE OF THE UNITED STATES TOWARD POLITICAL RELA-
TIONS IN THE FAR EAST

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INSTITUTION OF JAPANESE CIVIL ADMINISTRATION IN THE
LEASED TERRITORY OF KIAOCHOW

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EXCHANGE OF NOTES AND CONCLUSION OF AGREEMENTS BE-
TWEEN THE GOVERNMENTS OF CHINA AND JAPAN RELATING
TO MILITARY COOPERATION

(See pages 222-25)

LIBERIA

FINANCIAL AFFAIRS

Reforms Instituted;¹ Request for a Loan of \$5,000,000; Establishment of a Credit for \$5,000,000 in the Treasury of the United States

File No. 882.51/785

The Chargé in Liberia (Bundy) to the Secretary of State

[Extracts]

No. 169

MONROVIA, January 15, 1918.

SIR: It has been thought advisable, in view of certain information contained in some of the enclosures herewith transmitted, to prepare and forward this confidential report on financial conditions in Liberia in order that the Department may have before it the fullest possible light on the situation. While this report is really a continuation of Legation's No. 168, Diplomatic,² it seemed desirable to make the matters herein treated the subject of a separate despatch.

It has been mainly by virtue of the agreement between the Bank of British West Africa and the Government that the Republic was able to continue operation in 1917. This agreement went into effect February 21, 1917. Between that date and December 5, 1917, the Government through the working of the agreement has become indebted to the bank \$49,663.73. When the Republic's indebtedness to the bank reaches \$100,000, no further advances, according to the terms of the agreement, are to be made. At the present rate of increase of this debt the \$100,000 limit will be reached about July 1, 1918.

The bank management has been for some time past, I am informed, urging upon the Government through certain of its officials the necessity of considering ways and means for the Republic to get along when no further advances will be made. Suggestions were constantly offered, verbally, by the bank manager, and finally the President asked him informally to put his views in writing in order that the Government might see exactly what he had in mind.

On December 9, 1917, therefore, the bank manager addressed a private letter to the President embodying the suggestions he had previously made in conversation. Copy of this communication is herewith transmitted. To say the least, some of the observations and suggestions are very extraordinary. . . .

In a letter to the President dated December 11, 1917,² concerning the discussion of his suggestions, the bank manager said:

Events move rapidly in these days, and we in this bank confidently anticipate very marked financial events, affecting Liberia, taking place before long—hence my wish to keep in the background. . . .

¹ Continued from *Foreign Relations*, 1917, pp. 888-901.

² Not printed.

When the suggestions of the bank managers were discussed by members of the Executive Government, it was decided that their implications were so far-reaching that Liberia should without delay frankly state her condition to the United States Government and appeal to it for aid. To that end the Secretary of the Treasury prepared a confidential memorandum on the financial condition of the Republic which he submitted to the President for the purpose of having him authorize its transmission to the Department through the Legation.

On January 11, 1918, the Secretary of State addressed a confidential note to the Legation forwarding the above-mentioned memorandum, requesting at the same time that it be transmitted to Washington. The note of the Secretary of State also contains an appeal to the United States for aid.

The memorandum of the Secretary of the Treasury, besides setting forth Liberia's need of assistance, records a report of conversations between the bank manager and the Secretary of the Treasury, on the financial condition of the Government. These reported conversations shed considerable light on the suggestions of the bank manager to the President.

A few observations by the Legation at this point may be of some value:

1. At the rate things are now going, it will not be many months before the Liberian Government will be compelled to get assistance from some source, or face a crisis which will challenge its existence.

2. There appear at present to be only three sources from which assistance can come: the Bank of British West Africa, Ltd., the Government of the United States, or an agency representing the Governments of France, Great Britain, and the United States.

3. Relief must take the form of the loan of considerable money.

4. To make the loan effective, and to safeguard the securities on which it would be based, as well as to assist the Republic to rehabilitate itself, would call for the introduction of several foreign agents.

5. Realizing that much power will have to be conferred upon foreign agents to get the aid so necessary, the Government of Liberia is sincere in its desire to have the United States alone assume responsibility for the conduct of the affairs of the Republic.

6. If the Government of the United States should consent to assume this task, it would seem that the following American agents would be required to give satisfaction to all interests involved. The functions of financial adviser should be separated from those of general receiver. I am convinced that it is physically impossible for one man in a country like Liberia to do the work as it should be done, which has been designated as falling under these combined offices. Mr. Worley thinks differently on this point. He believes one man can successfully carry on both functions with an assistant. I do not think so, and feel that I have very good reasons to support my position, but there is no need to introduce them here. But to return to an enumeration of the American agents before-mentioned:

(a) Financial adviser with general supervision of all fiscal and financial matters of the Republic, and with sufficient power to straighten things out and keep them so.

(b) General receiver of customs and three deputy receivers. Aside from customs work proper, these officials could be disbursing officers for the frontier force, and receivers of internal revenue in the coast districts.

(c) An auditor for the general government and receivership.

(d) A civil engineer to complete boundary demarcation, and when that is finished, to open roads throughout the country and take charge of a department of public works.

(e) Not less than five officers for the Liberian frontier force. Oversight of this organization should be the work of the military attaché who should have real power to do whatever may be necessary to put the force on a proper basis.

(f) A commissioner general and four assistants to institute a system of interior administration for the hinterland and get Liberia's problems respecting the native tribes adjusted.

(g) A physician for sanitary work; an agricultural expert; and an expert for educational department.

(h) A competent man of recognized legal ability should be engaged temporarily to study the judicial system and make recommendations looking to its improvement which the Republic should be required to adopt.

(i) The Government of Liberia is willing to consider the conditions under which the German wireless and cable station at Monrovia may be turned over to the United States. It might prove desirable, if the United States becomes responsible for Liberia, to have this station. In such event wireless and cable experts would have to be imported from America.

Speaking generally, Liberia is as much deserving of assistance now as when the commission of 1909 reported favorably upon the United States rendering the aid she requested.¹ Liberia has always regarded the United States as her natural protector. It is thoroughly understood throughout the Republic that the United States has never had, and will not have, ulterior motives in its dealings with Liberia. Unquestionably there is a deep undercurrent of uncertainty which looks, now as heretofore, with misgivings upon the connection of European colonizing powers with Liberian affairs. It is feared that the goal toward which the agents of these Governments must inevitably work is the colony or protectorate.

The institutions of the Republic are American in origin and nature; accordingly Liberians feel that the United States would have a better understanding of the problems which face the country, and more sympathy with the efforts made toward their solution. Not only does the Government earnestly hope to keep intact the sovereignty of the Republic, but also to preserve unimpaired the political institutions upon which the State was founded. A period of tutelage under the United States would be acceptable because it is thought that this could only mean progress, growth, and stability for the country.

The bank manager says that the condition of Liberia is politically dangerous. This statement is not understood by the Government. Financially the situation must be regarded as critical, but from

¹ See Senate Document No. 457, 61st Cong., 2d sess.

the political standpoint it was thought that the guarantees given by France and Great Britain to the United States were quite adequate to confirm the political status of the Republic.

It seems from expressions of the bank manager that, for the time being at least, something of the nature of a receivership of all unassigned revenues given the bank would be the price asked for its further financial aid to the Government. This arrangement it is indicated would be worked temporarily side by side with the customs receivership. The injection of other foreign agents in this fashion into Liberian affairs would only further complicate an already too complex situation and get matters hopelessly involved without any corresponding benefit to the country.

The economic commission of inquiry which the bank manager suggests the President should appoint to make the indicated investigations would, it is felt, be a sheer waste of time and money. It is difficult to see that its chief function would not be to establish and publish that the leadership of the United States in Liberian affairs has been a failure. The American commission of 1909 thoroughly investigated conditions in the Republic. This work does not need to be done over again. The reforms that should be made in Liberia are already very well known. What is now needed is the money and the agents to carry them out.

It has often been reported to me that the opinion is held and expressed among the British in Liberia that the United States or its citizens would never lend the Republic money to the amount necessary to put it on its feet; that the most that could be expected from the United States was advice that didn't cost anything; and that when the real test came, it would be the British who would have to come to the rescue of Liberia.

The financial stringency through which the country is passing undoubtedly emphasizes the serious defects in Liberian administration. These are no greater now than in normal times when many of them passed unnoticed. The reforms suggested by the Department cover most of what needs to be corrected, but money and assistance are essential to make them effective. . . .

I have [etc.]

RICHARD C. BUNDY

[Enclosure 1]

*The Manager of the Bank of British West Africa, Ltd. (W. H. Ross-Bell) to
President Howard of Liberia*

MONROVIA, December 9, 1917.

MY DEAR MR. PRESIDENT: With reference to our conversation of the other evening, when you were kind enough to see me, and when you were kind enough to ask me to write to you privately in connection with the suggestion I threw out on that occasion that it might be to the advantage of this Republic if some kind of a financial commission were appointed by the Government to enquire into and advise the Government upon the whole economic position of the Republic as it is to-day, it is with no small diffidence that I take you at your word. And it is because I am anxious to avoid creating any idea that I am mixing myself up in the political affairs of this Republic, unduly, that I accept your offer to make my suggestions with reference to a financial commission of enquiry to you privately for your examination.

To begin with, it is necessary to dwell on the fact that the economic position of this Republic to-day is not only unsound but politically dangerous, and I think I may say that nobody is more concerned about the state of affairs here than my chief manager, Mr. Leslie Couper, and myself. The Republic passes from one economic difficulty into another, and it appears to be almost impossible to arrive at some sound scheme that will really remedy matters. The loan act

of 1911 under which the Customs Department passed into the control of foreign officers seconded for that purpose to the Liberian Government, was really the first sound step taken to set this country upon a better financial footing, and it was certainly succeeding until the present cataclysmic world conflict broke out which has to a great extent cut down the only revenues it could control. But it is my opinion that the loan act of 1911 was only a partial solution to Liberia's difficulties, in that it did not grapple with the question of internal revenue, as indeed, it could not well do as the matter was not referred to it, for obvious reasons.

I think it would be well to recognise that until the end of this war, an end which no man can foresee as yet, and even possibly until long after it, Liberia will have to depend more on her internal wealth than upon anything else. And if this is seriously recognised, the question at once arises: How is this internal wealth to be best secured?

With these preliminary remarks, I come to my subject.

Even the most optimistic Liberian or friend of Liberia has to admit that up to the present, the internal wealth of the Republic has not been as fully available for the purposes of the Government as it should be. One man or one department cannot be expected to find the best solution to the problem of internal wealth and development, without aid, without deliberate, exhaustive, and expert investigation. Without such investigation, no real improvement can be effected. To my mind, as I took the liberty of suggesting in conversation to you, the one and only real step to be taken towards a sound solution consists in the setting up by you of an economic commission of enquiry on the most up-to-date and improved lines to go into the whole economic position of this Republic, the object of such a committee being:

- (a) To enquire carefully and exhaustively into causes of the present position;
- (b) To enquire into military and departmental uses and abuses of authority;
- (c) To finally draw up a majority report and such other minority reports as may be necessary, all of which are to be published at Government expense and submitted to the Governments of the United States of America, Great Britain, and France, and to the Government of Liberia, and the press of each country for publication;
- (d) To draw up and suggest in such reports a comprehensive scheme of reconstruction for recommendation to the Government of Liberia.

I would suggest that such a commission should be composed of members selected on something after the following lines:

1. Three members of the cabinet;
 2. A foreign expert who should be nominated by the Governments of the United States, Great Britain, and France;
 3. One representative each from the following sections: clerical, legal, civil, banking, and commercial;
 4. All the receivers of the customs receivership in Liberia;
- And such other additions as would occur to the Government, which would be calculated to assist in the deliberations of the commission.

Such a commission would be nearly useless and simply a waste of public money if very full powers were not granted it while it existed. Its powers should include:

- (a) Right to complete access at will to all departmental accounts, records, documents, and correspondence;
- (b) Right to demand any witness to appear before it and give evidence, whether that witness be a foreigner, Liberian, or official, provided always that such witnesses are resident in Liberia;
- (c) Right to proceed at will to any part of the Republic, at the Government's expense.

If it was to be conducted properly and in an expert manner, the work before such a committee would be very onerous indeed, for it would embrace:

1. The whole existing and past systems for the collection and application of revenues, internal as well as external;
2. The Liberian frontier force;
3. Railways, roads, and telegraphs;
4. Harbours, shipping, and coastal communications;
5. Agriculture;

and many other questions that would arise in connection with the above, as the enquiry proceeded.

It will be seen that my proposal is one that would have far-reaching results if it were carried out, and if any recommendations of such a commission were accepted by the Government. The mere fact that the inauguration of such a commission of enquiry should be proposed officially to the Allied Governments interested in Liberia would have a certain effect, and be taken as an earnest of the desire of this people to take the best possible course for its future welfare, progress, and economic development.

It is not for me to outline more than I have done above, the exact nature and duties of such a commission; but what I have written will shew you very clearly what I am aiming at. I fear that the recommendations of such a commission are bound to be drastic, and are even likely to demand considerable sacrifices on the part of the Liberian people; but the more drastic such recommendations are, and the more severe are the sacrifices demanded of the Liberian people, the more will the necessity for such a commission be demonstrated.

I do not flatter myself, Mr. President, by thinking I am proposing anything very new or startling to you, nor do I want to have any public connection with the discussions that might arise as a result of these proposals, and I sincerely hope you will overlook the liberty I am taking in writing in such a way to you, a liberty I have taken at your own invitation—please remember. I am actuated only by a strong desire to assist Liberia through her daily growing troubles and difficulties: troubles and difficulties that promise to increase rather than diminish. My training is a financial one, and my work wholly financial; hence my interest in the financial problems of this Republic.

With kind regards [etc.]

W. H. Ross-BELL

[Enclosure 2]

The Liberian Secretary of State (King) to the American Chargé (Bundy)

No. 10/D

MONROVIA, January 11, 1918.

MR. CHARGÉ D'AFFAIRES: I have the honor, by direction of the President, to forward you, for transmission to your Government, the enclosed memorandum on the financial situation of Liberia submitted to His Excellency by the honorable Secretary of the Treasury.

The financial danger at present threatening the Republic, as foreshadowed in the enclosed memorandum, is, in the opinion of the President, so imminent as to warrant His Excellency's firm conviction that a strong and candid appeal should be immediately made to the Government of the United States to come to the relief of the Republic without delay:

1. A loan of not less than \$5,000,000 to enable the Republic to cancel the refunding loan of 1912, and to establish a receivership under American control alone; to take up our internal floating indebtedness; to stimulate education, agriculture and industry, and to inaugurate such public works as will operate for the complete financial and economic rehabilitation of the country.
2. By the loan of additional American agents to assist the Government in perfecting its desires and plans for effective administration and control, both in the several Departments of Government and in the administration of our hinterland.

To this end, therefore, does the President desire this memorandum to be laid before the Government of the United States through your Legation. Knowing as he does your warm interest and concern in the welfare and prosperity of Liberia, His Excellency feels justified in relying upon your support and endorsement of this appeal now being made to your Government.

With assurances [etc.]

C. D. B. KING

[Subenclosure—Memorandum]

FINANCIAL SITUATION OF THE REPUBLIC OF LIBERIA

The healthy signs of budding progress and financial stability which characterized the years immediately following the establishment of the customs receivership of Liberia are being entirely destroyed by the economic effects of the war in Europe upon the Republic. For more than three years now the

Republic has been battling to preserve something of that stability in the face of steadily decreasing revenues and increasing stagnation of business.

During the first few months of the war the revenues dwindled so woefully that the receivership could pay the Government practically no residue of revenue from the customs receipts, and the Government was compelled to adopt measures which it felt would be reasonably certain to provide the needed income required to bear its minimum expenses working with a restricted official list. All salaries were retrenched by 20 per cent and the Government endeavored to pay 50 per cent of these retrenched salaries. The employees of the customs service were placed upon the same basis. To replace a part at least of the residue of revenue, a surtax to the value of 20 per cent of the assessed duties on all imports was imposed. This surtax, together with the internal revenues, realized a partially satisfactory though uncertain income for the service of the Government as distinguished from the receivership.

The ships calling at Liberian ports and the cargoes brought maintained a steady average up to the beginning of the present year. Since that time there has been a serious decline in respect of shipping, so much so that the receivership is at present woefully embarrassed both as to the matter of transmission of interest and sinking fund as well as discharging its obligations in respect of payment of employees and the maintenance of the Liberian frontier force. The position of the Government proper is graver still in view of the consequences which are sure to result from the operation of the bank loan agreement concluded with the Bank of British West Africa, Ltd., on February 21, 1917, unless the Government should be able to keep down its indebtedness with that institution well within the limit fixed for advances.

Before this agreement was signed the bank had, at sundry times, made loans to the Government. Each loan, however, was a complete transaction and had to be entirely liquidated before the question of another would be considered by the bank, and then only when there were healthy indications of appreciable revenue in sight for the next few months succeeding such loan. This precaution on the part of the bank compelled the Government to patiently wait until sufficient revenue had accumulated to make a decent payment. Incidentally, this was a good safeguard for the Republic, but there was manifest dissatisfaction among officials and employees of the Government at these occasional payments, which did not, on the whole, work out at the rate of 50 per cent of retrenched salaries. With the cost of living constantly rising, with business and commerce slowing down, and with the material conditions of the people generally growing steadily worse, there arose an insistent importuning of the Treasury and the Government to devise some plan for general relief. This relief was sought from the Bank of British West Africa through an agreement whereby the bank makes advances of \$9,000 to the Government monthly until the total of these advances over the revenues paid into the bank reaches the sum of \$100,000. The present indebtedness to the bank is \$49,663.73, and at the rate of this increase it will reach its limit by July or August next, and the Government may then expect the real and distressing dangers, now imminent, to bristle up very tangibly.

This precarious situation is keenly perceived by the bank, as I have every reason to know, and it will use the advantage of its financial position and the indebtedness of the Government as a ram to batter down what the Republic regards as its bulwarks of safety, but what are esteemed by Europeans generally as "barriers to the investment of capital in the country and hindrances to good government." Since his arrival from Europe, the present manager of the bank has had several conversations, both official and unofficial, with me on the broad subject of what will be the position of the Government when the bank ceases to make monthly advances under terms of the present agreement, and what will the Government do to cope with the terrible conditions which will then prevail.

The intention of the bank in respect of its future relationship to and position in the affairs of the Republic evidently is that it shall become the dominant factor in the country financially; that it shall be supreme commercially in that it will finance the firms or corporations who may be selected, under a general scheme, for the development of the resources of the country, and its political complexion and rôle are disclosed when it is realized that the bank firmly insists that a share in the control and administration of internal affairs is the only sufficient security which would warrant either further consideration by the bank or large investment of capital. This intention expresses itself now by

a policy of "peaceful penetration." For the present the bank would be content if, upon the initiative and invitation of the Government, it were allowed to assist in the collection of unassigned revenues, and at the same time be made the *de facto* Treasury of the Government, the Secretary of the Treasury paying all salaries and obligations by cheque on the bank. This would be considered a logical step after the bank loan agreement, and having been achieved, the bank would give itself no concern as to the ultimate peaceful consummation of its designs. If the cooperation of the bank in this respect is not voluntarily sought, it feels it can afford to await the financial collapse which must undoubtedly develop with the cessation of the advances made by it and when the Government will surely make approaches for further relief. The bank will then be in a position to dictate its own terms. I am of the opinion, however, that the bank would prefer to pursue its policy of peaceful penetration. It is less disagreeable and presents fewer obstacles. It takes longer for the consummation of plans, but the result is the same in the end.

The manager has told me quite plainly what, in his opinion, will follow when the bank ceases to make monthly advances, and the logic of the situation would certainly support his views. The tendency is in the direction of a collapse. I shall summarize the several conversations with the manager, giving substantially what has been said in disclosing the intentions of the bank, what it is willing to do for the Republic and how it proposes to effect its rehabilitation in the event the opportunity to do so should finally present itself.

1. The bank feels that notwithstanding the availability of our revenues up to \$9,000 per month for expenditure by the Government, such revenues will be insufficient for its minimum necessities; that this lack of revenue will revive the disaffection among officials and employees temporarily allayed by the workings of the bank loan agreement; that with diminishing revenues, the receivership will be unable to pay both interest and sinking fund and the frontier force charges, and therefore the disorders of a few months ago will repeat themselves; that to prevent these evils the bank will undoubtedly be approached by both the Government and the receivership for assistance.

2. The bank, feeling that such conditions must arise, will be ready to come to the relief of the Government, but on terms which will involve no half measures. The question of an arrangement for temporary ease will not be considered, as such is deemed an expedient which would result only in more distressing circumstances for the Republic in the future. The bank will be willing to completely finance the Government in every particular which will not disturb the existing covenants and operations of the receivership, or in the exact words of the manager, "the arrangement would be tantamount to receivership of unassigned revenues." The bank would naturally demand a *quid pro quo*. The Republic having nothing but its potential wealth to give as security, the *quid* would mean control.

3. The control to be exercised by the bank would work the practical suspension of the Constitution, "temporarily at least," according to the manager, and involve sweeping changes in the functions of administration. Europeans, with experience in colonial government, would be appointed, with centralized power in their hands, to supersede the present form of county government. European district commissioners, with summary judicial powers, would control the interior, and so far as is possible, direct the frontier force. Officials would be placed in the Interior and Post Office Departments; the entire collection of internal revenues and the dual administration of Treasury affairs, would be insisted upon, the manager of the bank probably having the right to countersign cheques issued by the Secretary of the Treasury; our entire judicial system would be reorganized or consular courts established; the authority of the Legislature would be restricted, particularly in respect of financial matters. With the example of prosperous West African colonies before it, the general effort of the bank would be to inaugurate in the Republic as many of the methods that have proved beneficial in the colonies as is possible in the circumstances and still leave a semblance of representative Government.

4. Being in a position to force upon the Republic such stipulations as above expressed, the bank would consider the assumption of the refunding loan of 1912, and then develop the country through a scheme involving probably \$15,000,000 or more. This it would do, of course, through a syndicate, undertaking the working of concessions, building roads, railroads, harbor works, establishing telegraph and other public facilities.

This is the well-rounded design of the Bank of British West Africa as I gathered it from the manager here, and who expressed himself as conveying

the feelings of his directors. In the light of the progress made in the adjoining British and French colonies, it is certain that the Republic must make an effort to catch up with and keep pace with this progress. The country will be developed. Whether it will be the "Republic of Liberia" after such development takes place, depends altogether upon that agency which undertakes the task. There can be no successful resistance on the part of the Republic against the quiet, but firm and insistent, pressure for governmental efficiency and economic development which is being brought to bear by the bank as the exponent of European finance, entrenched as it is by virtue of its financial relationship with the Government. The Republic must yield in the end. This being inevitable, the Government should, with this memorandum, make an earnest appeal to the Government of the United States to assume this task of rehabilitation. It is idle and useless to talk about Liberia making any great reforms under existing circumstances. The Republic has neither the means to evolve quickly nor does it enjoy that confidence of the European powers interested as would cause them to patiently and sympathetically wait for this evolution to take place. Development and efficiency must come about very rapidly in order to satisfy the exactions of our neighbors.

The Republic needs two things: first, an immediate loan to give equilibrium to the present posture of affairs; second, to be furnished with the capital and agencies necessary to carry out a general scheme of economic development and effective administration and control. To this end, the Government should again lay before the Government of the United States its plea contained in the suggestions made to the American Commission of 1910. In doing so it is comforted by the feeling that the United States Government has only the best interests of the Republic at heart, which belief would give to the people, while those changes necessary for the complete rehabilitation of the country were being instituted, a sense of security that would not obtain should this rôle be played by any other power. It is my opinion that we should act in this matter without delay.

WALTER F. WALKER

File No. 882.51/799

*The British Chargé (Barclay) to the Assistant Secretary of State
(Phillips)*

No. 161

WASHINGTON, February 7, 1918.

MY DEAR MR. PHILLIPS: Some days ago I mentioned to you the suggestion made by the British Government to the effect that, in view of the difficult financial situation now existing in Liberia, and of the way in which Liberia had, in a measure, cooperated with the Allies, it might be desirable for the British, French, and American Governments to consider whether they could not assist the Liberian Government in meeting the difficulties which they were now experiencing. You asked me in this connection what steps had been taken by the British Government towards the resumption of normal trade with Liberia, and what was the situation in regard to shipping calling at Liberian ports, and I telegraphed to the Foreign Office for further information on these points.

I have now received a reply stating that at present trade is free to all in Liberia who are not concerned in facilitating enemy business, as all persons in Liberia have been removed from all prohibited lists with the exception of the names appearing on the statutory list, which includes in Liberia 57 German firms, 6 Spanish firms acting as "covers" for enemy firms, and only 3 Liberians.

As regards shipping, the British authorities are placing no obstacles in the way of calls at Liberian ports, but in view of the short-

age of tonnage it is likely that shipping facilities from these ports will in the future have to be curtailed rather than increased; it is also probable that the extension of the German submarine zone may result in the cessation even of the Spanish service. Further enquiries are however being made as to the possibilities of shipping facilities for Liberia, but it is probable that the situation will be as above indicated.

Before making any definite proposals for granting financial assistance, the trade prospects of Liberia will be carefully examined by the British Government. They would however be glad to know in advance if the United States Government, in view of the somewhat special circumstances in Liberia, would be inclined to consider favourably a suggestion that help should, in some form, be given by the three Governments, and I should be very much obliged for any indication which you may be able to give me as to whether the United States Government would favour the policy proposed, supposing that a satisfactory scheme for assisting the Liberian Government can be evolved.

I am [etc.]

COLVILLE BARCLAY

File No. 882.51/783

The Liberian Consul General (Lyon) to the Secretary of State

BALTIMORE, March 31, 1918.

EXCELLENCY: I have the honor to submit the following statement, in compliance with the suggestion contained in your communication of the 5th instant,¹ that owing to the absence of the Secretary and the Assistant Secretary of State, I should make my presentation of the matter contained in several cablegrams from the President of the Republic of Liberia and his Secretary of State, the nature of which, I have been instructed, had been disclosed already to the Department at Washington, by the American Minister Resident and Consul General at Monrovia.

These cable instructions reveal a very alarming and distressing condition of affairs, now existing in the Republic, due to the suppression of trade, occasioned by the sinking of several cargo steamers, by German submarines, with valuable consignments for Liberian ports, the customs levies from which would have replenished the depleted Treasury of the Republic. By reason of these unfortunate conditions the Republic is therefore threatened with complete financial disaster unless the United States Government heed the urgent appeal of the Liberian Government for immediate practical monetary assistance.

I am, therefore, instructed to approach the Government of the United States through your excellency and to ascertain if it will lend the Republic of Liberia a sum not less than \$5,000,000 with which to refund the 1912 loan, to develop the interior resources of the country under American supervision, and to give practical aid and assistance to her allies now in the greatest struggle of the epoch.

Liberia offers for the satisfaction of this loan, among other things, material assistance to her allies in the present war; viz.,

¹ Not printed.

(1) labor, (2) base for the operation of Allied fleets along the West African coast, (3) food, (4) communication facilities, (5) internal revenue, and (6) the customs levies.

Labor.—Liberia can furnish, estimating conservatively, 200,000 able-bodied men. It is well known throughout Europe that maritime communication between her and the west coast of Africa would be impossible were it not for the services of these natives as seamen and stevedores, of which Liberia furnishes the greater number. From the coastal tribes, viz., the Krus, Bassas, Grebos, and Veys, Liberia can furnish a minimum of ten regiments of experienced and qualified stevedores. A large portion of the contract labor employed in the various colonial possessions is drawn from the Liberian hinterland. Since the war, this labor has been at a standstill and could be transferred to France for communicative service during the war.

Food supplies.—This area of the Republic is regarded as the garden spot of the west coast. It is an agricultural district and was formerly recognized as the grain coast. The soil, on account of its climate, is capable of four distinct crops per annum. It is also capable of producing all those vegetables grown in the Southern States of the United States of America as well as those edibles common to tropical climates. Among these products are coffee, rice, beans, corn, cocoa, kola nuts, coconuts, etc. Added to these are the following valuable native products, which comprise an important place in the export trade of the Republic: viz., hides, piassaba fiber, rubber, dyewoods, palm oils, palm nuts, timber, and minerals. Cotton, so much in demand for war purposes, can be cultivated in Liberia, along with the native cotton from which the aborigines manufactured their cloths-patterns, and quality of which never fail to attract the foreigners' attention, and for which they pay fabulous prices in order to secure them.

Communicative facilities.—At present, located in Liberia are two cables and two wireless stations, owned prior to political disturbances in Europe, by French and German citizens and subjects. Since the declaration of war by the Republic of Liberia against the Imperial Government, Liberia has taken over the cable and wireless stations belonging to German citizens and subjects, and they are now being operated in the interest of the Entente nations with whom Liberia is allied. No further argument is necessary to emphasize the value to the Allied cause for communicative service, than the fact that these forces of influence are now in Liberia's possession, and they are being used to further the cause of democracy and freedom.

Internal revenue.—Much at present depends upon the natural products of the interior. Liberia has never been able to invite sufficient capital into the country to develop its interior wealth. Those who attempted—the history of the country will show—came to exploit it by unsavory methods rather than to develop it. Liberia has never been able to do it herself because she lacked the capital to build railroads and other facilities essential to interior development. If she had the capital, she could build railroads and other facilities; and she could invite scientific farmers from the United States. Under the supervision of the United States Government, which could act as instructor in the movement of farm development,

aided by the frontier police force, now officered by men from this Government, operating over the entire interior of the country, and having the power to compel every inhabitant to do his part, Liberia could increase the productions of foods and other stuffs common to the soil. It would not be long, therefore, before three-fourths of the arable land of the Republic would be under cultivation and producing at least three crops per annum. This would not only augment the revenues from the interior, but it would add to the food supply of the Allied nations.

Loan from negro contribution.—That portion of the Liberty bonds purchased by colored American citizens could float a loan for Liberia more than sufficient to meet her needs and to aid her in rendering assistance to her Allies. It was reported in the Baltimore *American*, after the conclusion of the second Liberty loan campaign, that the colored people of Maryland had purchased \$1,000,000 worth of Liberty bonds, exclusive of what they had done in the first Liberty bond issue. This fact, considered from the results noted in other States, would make the loan available out of the immediate contribution of the negroes themselves; and when it becomes public knowledge that the United States Government will, or has already aided Liberia, that portion of the Liberty loan now accredited to the American negro will be doubled in this campaign now being conducted for the third Liberty bond issue. Liberia is not asking for charity; but for the same consideration, on purely business principles, that has been shown to other nations in the Allied group. This Government has already loaned to its allies—Liberia not included—\$4,261,329,750 distributed as follows:

Great Britain	\$2,230,000,000
France	1,290,000,000
Italy	450,000,000
Russia	187,729,750
Belgium	84,000,000
Cuba	16,000,000
Serbia	4,200,000

American opportunity.—The present administration can aid the twelve million colored American citizens in this country in no better way than by aiding Liberia in her present difficult situation. Any practical aid rendered to Liberia now would inspire patriotism not only in the hearts of Liberians and the twelve millions of our racial group in the United States, but in the heart of every lover of liberty everywhere. The moment seems psychological. It was a President from Virginia who aided in the founding of the Liberian colony, and we cherish the fond hope that history might repeat itself giving us again a President from Virginia, who by the nobility of his character and the generosity of his nature will reach down and save the Republic to the race in Africa, and thus help to make a place that posterity can revert to with pride and hope as a refuge for future generations, in the struggle for liberty and democracy.

For further consideration of this all-important and urgent matter I still hope for a personal conference with his excellency, the Secretary of State, at such time as will be most convenient to him.

I have [etc.]

ERNEST LYON

File No. 882.00/583

The Chargé in Liberia (Bundy) to the Secretary of State

No. 210

MONROVIA, May 10, 1918.

SIR: For the information of the Department I have the honor to transmit the following report with reference to the progress of reforms suggested to the Liberian Government based on diplomatic instruction No. 23 dated April 4, 1917,¹ relative thereto.

On February 11, 1918, I addressed a note to the Liberian Secretary of State requesting data of the Government which would enable the Legation to make a report in detail concerning the progress actually made toward giving practical effect to the suggested reforms.

Replying on March 30, 1918, the Secretary of State forwarded to the Legation with his note copy of letter addressed to him by the Secretary of the Treasury setting forth the progress made with that portion of the program of reforms that relates particularly to finance. Reports on reforms connected with the Interior and War Departments could not be given now, the Secretary of State explained, for reason that the head of these Departments, Mr. John L. Morris, is on a mission in the interior, but that on his return these reports will be forthcoming.

I furnished the Financial Adviser with a copy of the report made by the Secretary of the Treasury on the progress of financial reforms and requested him to comment in detail on the various items it contains. The Financial Adviser has complied with my request and has given very fully his views on the statements of the Secretary of the Treasury touching financial reforms.

The Legation feels it is only fair to say that considerable progress has been made with some of the financial reforms suggested. A great deal more would no doubt have been done if it had been possible to get an auditor. Until an auditor is brought into this situation there will be no way of securing that efficient management of the Republic's finances which is so necessary. It is probably not to be expected that much more will be done than has already been accomplished unless, as before said, an auditor can be gotten. While giving the Government due credit for that degree of progress achieved in the matter of financial reforms, the fact can not be ignored that there are still many changes for the better relating to the country's fiscal affairs, that should be made and can be neglected only to its detriment.

I have [etc.]

RICHARD C. BUNDY

[Enclosure 1]

The Liberian Secretary of State (King) to the American Chargé (Bundy)

MONROVIA, March 30, 1918.

MR. CHARGÉ D'AFFAIRES: Referring to your note dated February 11,² I now have the honor to enclose you herewith copy of a letter addressed to me by the honorable Secretary of the Treasury, with respect to the progress that has been made by the Liberian Government in the matter of carrying into effect the various measures contained in the American program of definite reforms, as far as the financial situation is concerned.

¹ Foreign Relations, 1917, p. 877.² Not printed.

With regard to the suggested reforms in connection with the Interior and War Departments, I beg to state that a report upon the same will be furnished you upon the return of the honorable Secretary of the Interior and War from his present tour in the hinterland.

With distinguished consideration [etc.]

C. D. B. KING

[Subenclosure]

The Liberian Secretary of the Treasury (Walker) to the Liberian Secretary of State (King)

SIR: In response to your letter of recent date requesting information concerning the progress that has been made by the Government in the matter of carrying into effect the various measures contained in the American program of definite reforms, for the American Chargé d'Affaires *ad interim*, I have the honor to furnish you with the following data relating to the financial situation:

1. The depositary agreement and the bank loan agreement with the Bank of British West Africa, are being strictly observed.
2. All public moneys are now controlled by the Secretary of the Treasury with the exception of the Post Office funds. The Financial Adviser has not, as yet, effected the reorganization of the postal service with the Postmaster General as would bring these funds under control of the Secretary of the Treasury, as was contemplated in the program.
3. The pension list has been revised, and all pensioners heretofore receiving pensions without legal warrant have been dropped.
4. The expenses on account of the Judiciary service are very carefully scrutinized whenever payments on account of court expenses are made. A substantial saving is thus effected, and the judges are loyally assisting in this effort to reduce expenditures.

At the last session of the Legislature, the Attorney General presented a bill designed to very materially cut down judiciary expenses. The main features of this bill were: (a) to divide the Republic into two judicial districts instead of four as now obtain; (b) to have two jury sessions of the court in each county or territory a year instead of four as at present. This bill would have effected a saving of at least \$15,000 a year in salaries and expenses without jeopardizing the interest of either the State or of litigants. Unfortunately this bill was tabled by the Legislature.

5. The salaries of the members of the Legislature have been reduced to \$500 per annum.

6. A schedule of payment of salaries has been drawn up and agreed to by the Bank of British West Africa. No disbursements not contained in this schedule are being made. This plan of payment has been printed and published.

7. The staffs of the various Departments had already been reduced to what is considered the minimum before the American program was presented to the Government. Nevertheless a few other employees were dropped while many were displaced in the rearrangement of the War, Interior and Educational Departments; the Educational and Interior Departments were amalgamated by Legislative enactment, and the War Department was placed under the Secretary of this combined Department by the President. The reduction of officials was not confined wholly to the Departments. The office of the judge of the monthly and probate court and that of superintendent of Montserrado County were abolished, the auditors of the several counties and two commissioners were dropped, and clerks to the several superintendents.

8. In accord with the spirit and letter of the program respecting the giving of a living and respectable salary to heads of the executive departments and other responsible officials of the Government, under the rearrangement of the plan of payment which the Government is following, the salaries of the judges of the Supreme Court, of the Circuit Court, and those of the district and county attorneys are being paid in full.

At the call session of the Legislature in July-August 1917, the salaries of the cabinet members (reduced from seven to five in number) were recommended to the Legislature to be raised to \$3,000 each, to be paid without deduction or retrenchment. This recommendation had the approval of the Financial Adviser. The Legislature, however, fixed these salaries as follows, to be paid in full:

Secretary of State-----	\$2,500	Secretary of War-----	\$2,000
Secretary of the Treasury-----	2,500	Secretary of Interior-----	2,000
Attorney General-----	2,000	Postmaster General-----	2,000

The Secretary of State was given an allowance for entertainment of \$400 per annum. It was subsequently arranged that the Departments of War and Interior should be covered by one person at a salary of \$3,000.

The Legislature at its last regular session, just closed, altered the salaries of the cabinet members again, making a uniform salary of \$1,500 per annum for each member. An understanding was reached at a conference among the Executive, the Legislature, and the Financial Adviser as to the payment of these salaries in a manner so as not to disturb the existing plan of payment. That arrangement was agreed upon to avoid the many embarrassments presented by this sudden disturbance of what had been effected such a short while before in respect of cabinet salaries, and consisted in these officials voluntarily relinquishing parts of their salaries to be applied to educational purposes. It was understood that the act reducing salaries to \$1,500 would not be published and this would thus avoid giving the Bank of British West Africa cause for charging the Government with having disturbed the altered plan of payment.

9. An earnest and prolonged effort has been put forth to adequately deal with the internal floating indebtedness of the Government. An act calling for the registration of all claims against the Government up to June 30, 1917, and providing for the bonding of said claims as were found to be legitimate, was passed by the Legislature in August 1917; an amendment to this act was deemed necessary afterwards. This amendment was passed at the regular session of 1917-18, making the bonds to be issued in connection with this debt negotiable but not receivable by the Government except by an annual redemption. The bonds are to bear interest at 3 per cent per annum and to mature in 20 years. The amended act makes all payments to the Government in cash after June 30, 1918.

It was desired and expected by the Government that the Bank of British West Africa should guarantee the interest on and the redemption of these proposed bonds. In fact, the effort to thus place the finances of the country on an absolutely cash basis met with the most hearty approval of the bank, and it was felt, and not without encouragement from the bank, that if the Legislature should pass the act in the desired form, this guarantee would be forthcoming. The bank, however, has not, up to the present, seen its way clear to go this far in spite of its encouragement. It is not unwilling to guarantee this interest and redemption, but the bank insists that this feature must be considered in connection with a general scheme for the complete financial rehabilitation of the Republic in which very large powers would be delegated to the bank. This is a new phase in these negotiations, as this bond issue plan was from the first considered as a proposition complete in itself.

The manager of the bank goes only so far as to say that the Government may rely upon an advance, in addition to the monthly advances now made under terms of the loan agreement of February 21, 1917, to cover the interest only on the amount of the registered debt which the Government proposes to bond, namely, \$192,329.85, as well as the approximate amount of \$10,000, yet subject to registration in keeping with the provisions of the amendment to the original registration act, which extends the time for registration of claims to April 30, 1918. This assurance of an advance of \$6,100 for interest is contingent upon the Government indebtedness with the bank at the time the interest is payable, July 1, 1919, being under the \$100,000 limit of indebtedness under terms of the bank loan agreement. Inasmuch as this limit will, in all probability, be reached long before the above date, this cooperation on the part of the bank [is] of very doubtful value in perfecting the Government's bond issue plan. The bank's guarantee was sought in order to give perfect stability to these bonds and to assure the holders that interest and redemption would be paid regularly, thus enabling the Government to easily exact cash payments to it in every instance.

10. The Legislature, by act approved August 2, 1917, provided for the appointment of a Government auditor, and defined his duties. Much of the detail work of providing any new system of accounting or reorganization of the Treasury service which may be found necessary devolves upon this auditor. I believe this auditor has been already designated by the United States Government, to whom application was made by this Republic.

I have [etc.]

WALTER F. WALKER

[Enclosure 2]

The Financial Adviser of Liberia (Worley) to the American Charge (Bundy)

MONROVIA, May 9, 1918.

SIR: You have furnished me copies of a letter from the Secretary of State, dated March 30, 1918, and a report from the Secretary of the Treasury of March 12, transmitted therewith, concerning the progress that has been made by the Liberian Government in the matter of carrying into effect the various measures contained in the program of suggested definite reforms, and asked that I make some comment on the same.

With the exceptions hereinafter noted, the report is accurate according as I have knowledge of the facts.

I will take up the report of the Secretary of the Treasury *ad scriptam* under the various heads:

1. Except in certain aspects, which are not regarded as particularly vital, the depositary agreement and the loan agreement with the Bank of British West Africa are being observed.

2. Considerable improvement has been made in the matter of bringing all public moneys under the control of the Secretary of the Treasury. It is thought that further improvement can yet be made along this line, but under existing circumstances the Financial Adviser is unable to pursue these matters in detail without additional assistance. The Post Office Department has not been reorganized because of the pressure of other business which, from its importance, had to be accorded priority.

3. The Financial Adviser furnished the Secretary of the Treasury with a digest of the pension laws together with a classification of the pension list, and the latter has very materially revised that list, bringing it practically into conformity with the law. A further study is being made of the laws with a view to securing from the Legislature at its next session amendatory action which will bring the pension list more nearly into conformity with the public needs.

4. Without the assistance of an auditor, I am unable to say whether the expenses of the Judiciary are being carefully scrutinized or any saving effected.

It is to be regretted that the bill drafted by the Attorney General was not enacted by the Legislature. I can not give the figures, but the saving would have been considerable. There is too much machinery in the Judiciary at present.

5. The salaries of the Legislature were reduced to \$500 per annum, as stated.

6. A plan of payment has been drawn up, agreed to by the Bank of British West Africa, and printed for public information. There are only minor breaches in this plan of payment.

7. There have been some reductions and displacements in the personnel of the Departments, but it is believed that other reductions are possible. A portion of the money thus saved should be given to the men retained, which will make for increased efficiency. It will be necessary to make a personal study of each Department and indicate the additional reductions, but this can not be done by the Financial Adviser under the present stress of work. If he had an assistant he could make this study and indication, but if the auditor is sent, it might well be left to him in collaboration with the Financial Adviser.

The offices of superintendent of Montserrado County and judge of the monthly and probate court of the same county were abolished by an act approved August 2, 1917, but the clerk of the latter was continued. I am informed that the auditors of all counties, two commissaries, and the clerks of the several county superintendents have been dropped.

8. The statement herein is materially correct. I have no recollection in the matter, but all the memoranda which I have kept of the conferences at which the salaries of the Cabinet members were discussed show \$2,500 and all calculations made by me at that time, notes of which I have preserved, are based upon that amount. I have been shown no evidence to the contrary.

The President added the War Department to the amalgamated Department of Interior and Education.

The portions of the salaries relinquished by the Cabinet are to be applied to educational purposes as well as to increase the salaries of the various departmental staffs. The fact that the act will not be published does not seem to

remove the further fact that it is now law. It was passed over the President's veto and, although the Legislature agreed to withdraw it, it did not do so.

9. The statement under this head is in keeping with the facts. The internal indebtedness will be bonded up to June 30, 1918, when the bonds are to be issued. There will now be no Government paper or paper currency issued.

In view of the fact that this act, placing the Government's revenues on a cash basis, and a tariff act just enacted, fixing a surtax on all exports, are estimated to increase the Government revenues by some \$30,000 per annum, the Financial Adviser wrote the local manager of the Bank of British West Africa, requesting that the latter permit the Government to use some \$10,000 of this increase—about \$6,000 for interest and about \$4,000 for the annual redemption to give stability to the bonds. This the bank has declined to do. Inasmuch as all revenues of the Government are hypothecated to the bank and monthly advances made by the latter may be expended only for the purposes set out in the plan of payment, the bond issue appears to be doomed to failure, however beneficial or desirable it might be for Liberia's future welfare, unless financial assistance is forthcoming until the end of the war, after which Liberia could assume these charges. The first payment of interest and redemption will fall due July 1, 1919.

10. The auditor authorized to be appointed has been given very full and plenary powers and authority, and the Financial Adviser contemplates exercising certain of his functions through him. All that part of the reform program which related to a proper accounting system, reorganization of the Treasury Department, consolidation of revenues, etc., revolves around the auditor and must await his arrival. The results of the work of the Financial Adviser will show very little fruit without the auditor.

I have [etc.]

H. F. WORLEY

File No. 882.51/809

The Chargé in Liberia (Bundy) to the Secretary of State

No. 213

MONROVIA, May 15, 1918.

Sir: Referring to Legation's confidential despatch No. 185, diplomatic, dated February 16, 1918,¹ with which was enclosed copy of an agreement proposed by the local manager of the Bank of British West Africa as the basis of a financial arrangement between Liberia and the bank, I have the honor to transmit herewith copy of this agreement as it has been recast and amended by the manager.

The Secretary of the Treasury has furnished the Legation this copy and informs me that he received it direct from the hands of the bank manager who persistently urges him to advocate the adoption of the scheme by the Government. The agreement in its revised form is undoubtedly much more onerous in its conditions as they relate to the Republic than it was originally.

It seems from what I have learned that the bank manager does not desire to show his hand too openly in pushing this agreement, but rather desires that Liberian officials take it up and foster sentiment in its favor as if the scheme really originated within the Government.

Nothing has as yet transpired to indicate that the bank manager is making any progress, so far as the Government is concerned, with the agreement. And under normal conditions it would doubtless never be given serious consideration. But the day comes on apace when the Republic will have to get financial assistance from some source. When that time arrives, and at the present rate it can not

¹ Not printed.

be much more than three months away, the Government will be compelled to face the facts:

1. That all custom revenue, head money, and rubber tax are pledged to the receivership which is heavily in arrears with the fiscal agents of the refunding loan.

2. That all internal revenues, excepting the Post Office Department which is now not self-sustaining, are pledged to the Bank of British West Africa, Ltd., to which the Republic will owe \$100,000.

With all its assets hypothecated in this fashion, the task of getting money to run the Government will evidently not be an easy one.

It may be that the bank looks forward to this crisis as affording it the opportunity to obtain the hold desired on the Republic's finances as the consideration required before giving the Government that assistance it must have to continue its existence.

Officials of the Government make frequent inquiry of the Legation as to whether the Government of the United States is favorably considering Liberia's appeal for aid as communicated in my despatch No. 169, dated January 15, 1918.¹ It is generally felt that if the needed assistance can not be gotten from or through the United States, the future outlook for the Republic is exceedingly gloomy. Accordingly the Liberian Government is anxiously waiting for some word from the Department on this very vital matter.

I have [etc.]

RICHARD C. BUNDY

[Enclosure]

Proposed agreement for financial reforms

An agreement made this _____ day of _____ in the year of Our Lord one thousand nine hundred and _____ between the Government of the Republic of Liberia (hereinafter called the Republic), of the first part, and _____ (hereinafter called the Bank), of the second part, which witnesseth

1. That the Republic hereby appoints the Bank as its sole official bankers for a period of twenty-five years or thereafter until such further period during which the Republic shall be indebted to the Bank, subject to the conditions mutually agreed upon as hereinafter enumerated.

2. That the Republic hereby creates and will continue to recognize throughout the life of this agreement a financial advisory board (hereinafter called the Board) consisting of the Government Secretary of the Treasury, the General Receiver of Customs, the Bank manager for Liberia, the Chairman of the Ways and Means Committee of the Senate, and one annually elected member from the commercial community of Monrovia.

3. That the Republic shall have the right if required by it to appoint a commission (which shall include if necessary members drawn from other countries), every five years to enquire into and report upon the general conditions in the Republic resulting from the operation of this agreement, for reference to the United States of America, Great Britain, and France with a view to any necessary redress.

4. That the authority of the Board shall be final in all matters of finance connected with the internal revenues of the Republic, including receipts, expenditures, the appointment, prosecution, and dismissal of revenue officers, during the life of this agreement, and that the Board shall solely supervise all such matters.

5. That the Board be empowered hereby to draw up an annual budget and estimates in respect of internal revenues, which shall be submitted within one

¹Ante, p. 505.

week of the opening of the annual sessions of the Senate and Legislature of the Republic for their information, and same shall be strictly observed and binding upon all officials and departments concerned.

6. That the Board shall be empowered hereby to draw up such laws, regulations, and by laws as in its opinion may be necessary for the proper financial conduct of the Republic under the terms of this agreement.

7. The Board shall in no instance be permitted to grant concessions or otherwise decide on financial matters not within the scope of this agreement, unless it has first obtained the approval and sanction of the Senate and Legislature of the Republic.

8. That the Republic hereby agrees to refer all questions of finance and applications for concessions to the Board for their final approval before any measures in connection with same shall be made law.

9. That the Board shall be empowered to create and maintain an armed police or constabulary force of not more than 500 men and officers to be utilized for revenue purposes, as distinct from customs purposes, which force shall be recruited entirely from the citizens of the Republic and officered by regular officers only as selected by the Board from any first-class army in the world.

10. That the Bank shall keep all Government credits accounts free of all charges, and to keep all Government debit accounts at 7 per cent per annum interest on the daily balances of same.

11. That the Bank shall countersign all cheques drawn against Government accounts, subject to arrangements made from time to time by the Board, and that any cheque not so signed shall be invalid and inoperative.

12. That the Bank shall inaugurate at its own expense such systems of accounting as in its opinion may be necessary for the proper management of internal revenues received by it, which systems shall be binding upon all officials and departments concerned.

13. That the Bank shall submit to a system of auditing of all Government accounts kept by it, as shall be provided for by the Board.

14. That the Bank shall appoint travelling collectors in its own pay, whose duty it shall be to obtain and collect revenues already collected by Republican revenue commissioners in the pay of the Republic, and to report on and receive local complaints on the work of such commissioners to the Board.

15. That the Bank shall be required to open under its own management and officers full branches at Monrovia, Grand Bassa, Sino, Cape Palmas, and one other branch in the interior as shall be decided by the Board. And that the Bank shall, at the request of the Board, open such other branches as may be considered necessary, provided that proportionate remuneration be made by the Republic as stipulated for in Clause 16.

16. That the Bank shall open full agencies at such other places in the Republic as shall be required by the Board, provided the services of an European firm of financial repute and good standing can be obtained at such places.

17. That all transfers of money to places within the Republic effected by the Bank on behalf of the Republic shall first be authorized by the Board, and shall be subject to a commission of $\frac{1}{2}$ per cent if made in account, or 1 per cent if made in coin, plus all proper expenses connected with such transaction.

18. That all transfers of money to places without the Republic effected by the Bank on behalf of the Republic shall first be sanctioned by the Board, and shall be subject to a commission of 1 per cent if made in account, or $1\frac{1}{2}$ per cent if made in coin, plus all proper expenses connected with such transaction.

19. That the Bank shall keep proper registers of the Liberian Government internal indebtedness bonds as created by the acts passed by the Senate and Legislature of the Republic in 1917 and 1918, and to arrange for the issuance in proper form of such bonds in full conjunction with the Board.

20. That the Bank shall, at the request of the Board, during the life of this agreement guarantee and pay to the Republic the minimum sum of \$500,000 per annum, payable in equal monthly instalments which shall be applied as hereinafter stated, such sum being met out of revenues received by the Bank and such advances to make up any deficiency as may be necessary.

21. That the advances made by the Bank against revenues or loans shall be utilized only in accordance with the budget and estimates drawn up by the board as provided for in Clause 5 in this agreement, limited to the following purposes:

(a) Payment of official salaries as per Schedule 1 attached hereto which shall form part and parcel of this agreement, up to a sum not exceeding \$250,000 per annum;

- (b) Maintenance of the police force as provided for in Clause 9 in this agreement, including salaries as per Schedule 2 attached hereto which shall form part and parcel of this agreement, up to a sum not exceeding \$75,000 per annum;
- (c) Maintenance of roads and highways up to a sum not exceeding \$24,000 per annum;
- (d) Maintenance of telegraphs up to a sum not exceeding \$18,000 per annum;
- (e) For educational purposes and upkeep of schools up to a sum not exceeding \$12,000 per annum;
- (f) For providing for the redemption and interest on the bonds of the Republic up to a sum not exceeding \$10,000 per annum;
- (g) For upkeep of harbour buoys and lighthouses up to a sum not exceeding \$5,000 per annum;
- (h) For upkeep of public buildings and other general contingencies, including stationery, furniture, insurance, and such other matters approved of by the Board in each instance, up to a sum not exceeding \$12,000;
- (i) Payment of the bank fee of \$50,000 per annum;
- (j) Provision for payment of all Bank interest and charges as may be incurred by adjustment with above provisions, but only in connection with heads (c), (d), (g), and (h), if necessary.

File No. 882.51/783

The Secretary of State to the Secretary of the Treasury (McAdoo)

WASHINGTON, June 1, 1918.

SIR: I have the honor to enclose a copy of a communication from the Consul General of Liberia at Baltimore,¹ in which an appeal is made on behalf of the Liberian Government for a loan of at least \$5,000,000 from the United States, to enable that Government to refund the loan of 1912, to develop the interior resources of the country under American supervision, and to give practical aid and assistance in the war.

For the satisfaction of the loan, Liberia offers "among other things," material assistance to the nations at war with Germany by furnishing labor, a base for the operation of the Allied fleets along the west coast of Africa, food and communication facilities, and internal revenue and customs levies.

With respect to the loan of 1912, the refunding of the amount of which is stated to be one of the objects for which the applied-for loan is desired, I beg to explain what probably is already known to you that this loan was made in pursuance of an agreement between the Republic of Liberia of the first part, and J. P. Morgan & Co., Kuhn Loeb & Co., the National City Bank of New York, and the First National Bank of New York City, of the second part, for the purpose of adjusting all of Liberia's then existing internal and external indebtedness, and that the loan is chargeable as a first lien on all customs revenues of Liberia receivable on and after May 1, 1912, whether in respect of imports or exports; on the revenues receivable on or after said date from the tax on rubber; and is a lien subject only to an existing charge thereon in favor of the firm of A. Woermann on the revenues receivable on and after said date from head monies; and was secured as a first charge on all such

¹Ante, p. 514.

customs duties and rubber revenues of the Republic, and subject only as aforesaid on such head monies of the Republic.

Liberia agreed to create "the 5 per cent sinking fund gold bonds of the Republic" to an aggregate principal amount not exceeding in any event \$1,700,000 in gold coin of the United States. These bonds mature in 40 years from their issue and bear interest at the rate of 5 per cent per annum, payable semiannually.

For the purpose of securing the 5 per cent bonds, the control of the administration and collection of all customs of the Republic and of the said rubber tax and head monies was, during the life of the loan, placed in the control of a customs receivership to be administered by a general receiver to be designated by the President of the United States, and three receivers to be designated by the Governments of Germany, France, and Great Britain; and it was cov-enanted that the assigned revenues in each year shall be applied:

(1) First, to the payments, as they arise, of the costs and expenses of the collection, administration, and application by the Customs Receivership, of the assigned revenues, including the cost of exchange in making remittances thereof for the service of the loan;

(2) Thereafter to the payment by the Customs Receivership to the fiscal agents of the loan monthly, on the first day of each month during the life of the loan, of an amount equal to twenty per cent of the gross receipts from the assigned revenues during the preceding month, but never less than eight thousand six hundred dollars United States gold; such amounts to be applied by the fiscal agents to the expenses of the service of the loan, includ-ing the cost of exchange in making remittance to Europe for payment of interest or other purposes, to the payment of the interest on the five per cent bonds as such interest matures, and thereafter to the creation of a sinking fund in pursuance of Article Fifth;

(3) Thereafter to the payment, by the Customs Receivership, of any other amounts which the Republic has agreed to pay, or may hereafter become liable to pay, under this agreement, or to the fiscal agents of the loan;

(4) Thereafter to the payment, by the Customs Receivership of any other amounts which, in pursuance of legislation or agreement, may be made, or may become, payable by the Customs Receivership out of the assigned revenues otherwise payable to the Republic;

(5) Thereafter to the payment, by the Customs Receivership, of any residue to the Republic.

If the assigned revenues shall be insufficient in any month to meet the pay-ments called for by the foregoing clauses (1), (2), and (3), any deficit shall be made up out of the assigned revenues of the succeeding months otherwise payable pursuant to the foregoing clauses (4) and (5).

Principally from the natural decline of her trade caused by the war, but also because of trade restrictions by the British Govern-ment and the deportation of Germans and the consequent closing of their business houses and factories, the revenues of Liberia have greatly decreased, her customs revenues alone dwindling from \$485,576 in 1913, to \$163,634 in 1917, so that she is not only in arrears on account of interest, sinking funds, and charges under the loan agreement of 1912, but she has been for some time past unable to meet in full the running expenses of the Government. It was mainly by favor of an agreement with the Bank of British West Africa that the Republic was able to continue in operation in 1917. Under this agreement which went into effect February 21, 1917, no further advances are to be made by the bank when Liberia's indebt-edness to the bank reaches \$100,000, a limit which it is expected will be reached by July 1 next.

The financial situation of the Republic is critical, and it would appear that there are but three sources from which assistance to face the crisis could be obtained: (1) the Bank of British West Africa, (2) an agency representing the Governments of France, Great Britain, and the United States; or (3) the Government of the United States. This Department, not only because of this Government's historic interest in Liberia, but for political and commercial reasons as well, is of the opinion that a larger share of foreign control of the finances of Liberia would be undesirable, and that the Government of the United States should alone assume responsibility for the conduct of the affairs of the Republic.

I therefore beg to commend the application of the Liberian Government to your serious consideration, feeling confident that you will be disposed to grant the assistance desired by Liberia if the making of the loan comes within the powers vested in you by law and no obstacle opposes.

I have [etc.]

ROBERT LANSING

File No. 882.51/815

The Chargé in Liberia (Bundy) to the Secretary of State

No. 220

MONROVIA, June 12, 1918.

SIR: For the information of the Department I have the honor to transmit herewith copy of a communication with its enclosures, addressed to the Legation by the Financial Adviser.

This communication contains the views of the Financial Adviser respecting a plan which he has proposed for the collection of taxes and revenues in the interior. The enclosures to the communication are the correspondence which has passed between the local manager of the Bank of British West Africa, Ltd., and the Financial Adviser, concerning the proposed plan.

There is not the slightest question about the urgent need of Liberia employing for a period of years a commissioner general and four assistant interior commissioners to aid the Government in its administration of the hinterland. All these officials should be American citizens. The bank appears, according to the statement of the Financial Adviser, hostile to the proposition and seems to be in a position to put obstacles in the way of its being carried out. This is possible because, it will perhaps be remembered, the bank has a lien on all the internal revenue, and under its agreement with the Government, civil employees may not be increased without its sanction. So, before the Government can provide, out of internal revenues, the necessary salaries to pay the interior commissioners it may desire to employ, the consent of the bank must be obtained. This phase of the matter is fully discussed in the communication of the Financial Adviser.

It is my belief, however, that the bank will yield the point when the Government shows that the measures it proposes to take will result in an efficient interior administration which will necessarily increase materially the value of the bank's security, and that this matter of an improvement in Liberia's interior administration is of considerable interest to the United States.

I have [etc.]

RICHARD C. BUNDY

[Enclosure]

The Financial Adviser of Liberia (Worley) to the American Chargé (Bundy)

MONROVIA, May 29, 1918.

SIR: I have the honor to enclose herewith a copy of my letter, dated March 30, 1918, to the local manager of the Bank of British West Africa outlining my plan for the collection of internal revenue and the effective administration and development of the interior, as well as the maintenance of peace and order. On March 30, a copy of this letter was informally forwarded to you and the Secretary of the Treasury for the purpose of future discussion, perfection, and elaboration. I also enclose a copy of a reply of the bank manager dated April 3, 1918.¹

The manager of the Bank of British West Africa here has advised me that the whole subject of financial assistance to Liberia has been taken up by his bank in London with the Foreign Offices of Great Britain, France, and the United States, and that the matter will doubtless receive consideration and some agreement be reached for the maintenance of Liberia during the present war. Nevertheless he has not ceased to urge me to agree to his proposals here or some modification of them. I do not agree to his proposals, but even if I did, it would seem superfluous to discuss terms here when the subject is before the United States Department of State for determination. I take it that if the Department of State wishes any information or recommendation, the same will be asked for. As this proposal of mine is a part of the whole program, I have every reason to believe that some reference will be made to this scheme for the collection of taxes and administration of the interior, and I feel that Washington should have a copy and be fully advised in the premises.

The bank manager has told me verbally that the plan is feasible and generally meets with his approval, but that the bank will not consider the same by itself apart from the general subject of a financial reform and reorganization here, together with a change of "financial policy" that will give the bank a material advantage and almost a free hand in Liberian finance and affairs. As illustrative of what the bank desires I refer to my letters to you dated January 14 and February 14,¹ and also to your despatch of May 24, 1918, transmitting a second proposal of the bank made to the Secretary of the Treasury and Financial Adviser.¹ If accepted, the bank's proposals would mortgage Liberia's future and place her in the hands of Great Britain.

This administration of the interior is a part of the American program of reform. I might say in passing that the bank has appeared to be unfriendly to every measure in that program which required its cooperation or assistance to carry it into effect.

By Section 14 of the bank loan agreement of February 21, 1917,² a copy of same was forwarded by Liberia to the British Foreign Office to become later the subject of possible diplomatic correspondence. This savors of the political rather than of the commercial. The bank manager is also the Acting British Consul General at Monrovia.

The bank will not agree to make any advances against the future collections under this plan in order to put it into operation and meet expenses for the first six months or so until the preliminary assessment has advanced far enough to enable collections to be made in sufficient amount to meet these expenses and return the advances made by the bank. About \$10,000 or \$15,000 would be needed in advances to bring the officials here and pay the necessary running expenses until the plan is in full operation; otherwise it can not be instituted. If the schools are not established at once and the chiefs partly remunerated for opening the necessary roads, they will be suspicious of and antagonistic to all efforts to operate the plan. They are tired of promises which have not resulted in performances.

In view of the large and unauthorized taxes, fines, and other burdens placed upon them by commissioners in the past, the chiefs and tribes have been conferring with a view to a united opposition, by peaceable or forcible means, to the collection of any further taxes, even to the authorized hut tax of \$1.00 per hut per annum. This would be a serious thing for the Government, if effected, and the Secretary of the Treasury and Financial Adviser have conferred with the bank manager with a view to abolishing the collection of the hut taxes for

¹ Not printed.

² *Foreign Relations, 1917*, p. 889.

the present, in view of the fact that the Government has no ammunition to enforce its demands if it meets with active resistance. The manager would not agree to it and the Financial Adviser urged renewed efforts to secure ammunition through the Acting British Consul General who is also bank manager. He agreed to help in this. Even if there were plenty of ammunition, the cost of subduing such a native uprising would be enormous. This matter of taxation is probably the only one on which all the tribes of the Republic could unite against the Government.

A fairly good road extends along the Liberian frontier from the English boundary to near Tappi, near the French boundary. It is my plan to extend these ends down to Cape Mount and Cape Palmas (which would give Liberia a road extending along its entire boundary line) together with intermediate roads down to the coast towns of Monrovia, Grand Bassa, Sino, and River Cess. This would bring traffic which now goes to French and English territory, down to the coast with resulting benefits to Liberia commercially and economically. In anticipation of this road building, one firm has secured the agency of a well-known automobile and has imported seven auto trucks to bring native produce from the interior. As soon as the roads are built others will follow as well as motorcycles.

It would be well if at least two of the district commissioners be civil engineers in order to supervise the construction of roads, bridges, and to assist in the boundary delimitation, if necessary.

The district commissioners are to be peace officers. The military will be used only for the purpose of guarding and escorting the revenues collected and in case the district commissioners are threatened with violence in the performance of their duties or can not carry out their work in a peaceful manner. The Liberian frontier force in the interior should be subject to the orders of the Commissioner General to prevent abuses and secure effective cooperation. This has worked well in practice recently under Mr. Mitchell.

Secretary J. L. Morris and Major J. H. Anderson, after an extended trip of inspection into the interior, state it as their opinion that \$200,000 per annum may easily be collected from the interior the first year. I am quite certain that my figures of prospective revenues are very conservative.

It is believed that my educational plan will make for a homogeneous people as a population instead of a heterogeneous number of tribes speaking different languages, many of whom are at enmity with each other and most of them in passive opposition to if not active rebellion against the Government which they do not understand. The plan has worked well for peace and order in the Philippine Islands, where more people spoke English in the first ten years of our occupation than spoke Spanish during over 300 years of Spanish régime. A common language would bring about a better understanding. The school teachers in the Philippine Islands were the centers of propaganda in the interest of the Government and through which the Government might make itself, its aims, and objects known to the native population. Their policy was one of attraction and helpfulness and they readily secured the confidence of the natives and won them to the Government.

The teachers could and would be of great assistance to the district commissioners in Liberia.

One or two manual training schools here would be very profitable to the Republic. Even the wildest natives show exceptional skill in work in leather, iron, copper, aluminum and gold, as well as weaving cloth. All of this could be developed by theoretical training and practical operation under skilled supervision.

I would be willing to entrust some of the educational work to the foreign missions now on this field, giving them such moral and material assistance as might be possible in the way of erection of school buildings, etc., and in return they becoming sort of quasi-public officials under Government control and supervision, as in some colonies in Africa. The school teachers could easily secure the confidence of the natives who would go to them for advice, and also to read and write such communications to and from the Government as might be necessary for the purpose of an interchange of ideas, transmission of instructions, or touching any irregularity or oppression. I feel confident that the mission boards now represented in Liberia would be glad and ready to take up this larger field under Government aid and supervision if they knew that it were possible. There are five such boards together with some independent workers. A high quality of men would be insured at a minimum cost to the Government and with a maximum degree of efficiency.

The supervising teachers and, if possible, the teachers in the main centers of population should be young men imported from America with such native assistants in the smaller near-by towns as they could supervise. These elementary schools would serve as feeders for the higher schools in the larger centers of population. I am advised that the missions in Liberia have native assistants now ready to take up this work. They have been trained in their present schools here.

The Bureau of Insular Affairs of the War Department would doubtless be able to select all the commissioners and teachers needed for this work from men of experience in our insular possessions.

The bank manager has repeatedly asked me to point out in what definite way he might be able to cooperate and help Liberia. The last paragraph of my letter to the bank manager is in answer to this request. Although the law has been enacted authorizing the auditor and it is generally known that he has been requested from the United States Government, it is a matter of considerable interest to the foreigners here as to why he has not been detailed. It is thought by some that no earnest effort has been made to secure an auditor and that the American Government, the Financial Adviser, and the Liberian Government are not sincere in their declared efforts to secure his services.

I have [etc.]

H. F. WORLEY

[Subenclosure]

The Financial Adviser of Liberia (Worley) to the Manager of the Bank of British West Africa (W. H. Ross-Bell)

MONROVIA, March 30, 1918.

SIR: I have the honor to give you below the plan which I have proposed to the Government of Liberia for the collection of internal revenue. Although I have explained this to you quite *in extenso* several times, I would like to get it before you formally.

A line drawn 40 miles from and parallel with the coast would include all the civilized towns and settlements. I propose dividing this coast division into three parts to be in charge of the three receivers of customs in their respective districts for the establishment and collection of internal revenue in the manner hereinafter outlined for the boundary.

All of the interior beyond this 40-mile strip I would divide into four districts by lines running at right angles with the coast. Mr. T. C. Mitchell, the present American Commissioner General, would be in charge of this interior at some point on the St. Paul River near Tinsou or Bulikai, at least for the present. One commissioner would be in charge of each district with a Liberian directly under him for purposes of instruction. I can secure competent men for this work who have had from five to ten years experience in larger fields than this in the insular possessions of the United States.

There is at present authority for the assessment of a hut tax of \$1 per annum. Each commissioner would go through his district assessing the property and preparing duplicate tax registers, one copy of which would be filed in the Treasury Department at Monrovia. Stub or duplicate tax receipts would be printed to correspond with the numbers in the tax registers. Additional receipts, suitably numbered, would be provided for huts subsequently erected and assessed.

As far as possible, these taxes would be assessed and collected through the chiefs, holding them responsible for same. I would utilize them to the greatest possible extent as long as they are loyal.

Periodically a Treasury official, under escort of a commissioned officer of the frontier force and suitable guard of soldiers, would make a tour collecting this money and transporting it to Monrovia. Each district commissioner would make out a voucher, giving the details of the money being transmitted, which both he and the Treasury official would sign in duplicate, one copy being retained by the commissioner in book form and the other accompanying the money to the Treasury Department.

It would require about two years to fully assess a district, and thereafter the taxes should steadily increase in each district except some village or town be visited by fire. Any material reduction in the taxes of any district would have to be explained in detail in writing and be authenticated by the Commissioner General and, if possible, by the Treasury official. After two years the assess-

ment and collection of these taxes in each district might be gradually turned over to the Liberian understudy.

At my request, Mr. Mitchell has made an estimate of the huts in the section immediately along the boundary, and he reports that there are some 100,000 of them. Everyone here who has any knowledge of the boundary agrees that this is conservative. Mr. Mitchell knows nothing of the great interior between the 40-mile strip along the coast and the boundary. In the intermediate interior are the populous Vais, Golas, Kpwessis, Grebo, etc.

Accepting his estimate for the section immediately along the boundary alone, we might easily count on \$100,000 the first year. I purpose spending not to exceed one-half of this amount for the cost of establishing the system and expense of collection, schools, and roads running down to the coast. The cost of collection would include travel allowance. The one thing which every native chief wants is a school to be able to "make a book." It is the height of his ambition that his boy shall know how to read and write. These teachers would be carefully selected with a view to their morals and character. Some of them, especially supervising teachers, might have to be imported. We have had splendid results in our insular possessions where the native children were taught to read, write, and do number work. We found that some of the boys had the capacity to take a higher education and these were sent to the larger centers for advanced work in high schools or preparatory schools. If any of them developed and showed they were capable of going further, we sent them to a college located at the capital where they would come into contact with the Government, which theretofore was an intangible something they could not understand. Liberia College might be developed into the needed college here. Manual or technical training and education is also a part of this educational plan and some of the boys would take this course and be taught the dignity of labor by precept and example.

A common language would be taught them and their friendly contact with the Government, that was giving them something in return for their taxes, would make for peace and good order among them and in their relations with the Government.

Hheretofore the native claims that he has cut the roads and kept them open without remuneration. It is a part of my plan to pay him, in part, for this work. It would not be much, but it would be a source of encouragement and stimulation.

These three expenses would not be allowed to exceed \$50,000, which would leave \$50,000 per annum, which we are not receiving now from this territory.

The great intermediate interior should produce \$100,000 and the coast, with its various forms of taxes, etc., should produce \$100,000. If the plan of returning 50 per cent to each district in betterment and education, etc., were adhered to, this would still leave a net total internal revenue of \$150,000, which is altogether possible even in these times. Later, under intensive production and normal trade conditions, this should be much increased.

Of course the Government will continue to receive the 20 per cent surtax on all imports established by the act approved March 12, 1915, and the 20 per cent on exports established by the act approved February 1, 1918. During the last fiscal year the former amounted to \$20,077.26 and the latter is estimated to be more than \$5,000 per annum based on the last full year for which figures are available.

The Treasury is now sending a representative up and down the coast in the interest of the internal revenue, and you have doubtless noted the marked increase in these revenues within the past few months.

I attach a rough map with explanatory footnotes.¹ The part nearest to the boundary and within the dotted line is the section Mr. Mitchell has estimated on.

The one moral aid which you could give the Government and the Financial Adviser at present that would outweigh almost any other would be to assist in having an auditor sent out under the enabling act approved August 2, 1917. He would be of great assistance in establishing this system of taxation and collection and in keeping proper checks on it and the collection and accounting for moneys. The Government of the United States is now seeking a suitable man for this position. I believe the auditor would be of material assistance to the bank, even though indirectly.

Very truly yours,

H. F. WORLEY

¹ Not printed.

File No. 882.51/809

The Secretary of State to the Secretary of the Treasury (McAdoo)

WASHINGTON, July 11, 1918.

SIR: Referring to my letter of June 1, 1918, concerning the appeal made by the Government of Liberia for a loan of \$5,000,000 from the United States, I have the honor to enclose herewith a copy of a despatch¹ from the American Chargé d'Affaires at Monrovia covering a draft of an arrangement which the Bank of British West Africa is endeavoring to have the Government of Liberia, in its necessity, agree to.

I think it will be apparent to you, as it is to this Department, that unless financial assistance is rendered to Liberia by this Government, there is danger of Great Britain obtaining a predominating control of the country through this British bank. The urgent needs of Liberia, as pointed out by the Chargé d'Affaires, would seem to make it necessary for Liberia to obtain financial relief from some quarter at an early day, and it is my hope that it will be found permissible and possible for this relief to be afforded by the United States without further recourse to the British bank. In any event, final decision should not be delayed.

I have [etc.] .

For the Secretary of State:
WILLIAM PHILLIPS

File No. 882.51/814

The Consul at London (McBride) to the Secretary of State

No. 9

LONDON, July 15, 1918.

SIR: I have the honor to enclose herewith a draft of a supplemental agreement between the Government of Liberia and the Bank of British West Africa.

The financial situation in Liberia has become such that some form of assistance is required at once, and this proposed agreement has been submitted by the Bank of British West Africa to the Foreign Office in London, to be later forwarded to the French Government at Paris and the American Government at Washington.

I am informed by the manager of the Bank of British West Africa that if the necessary assistance is to be given, action should be taken as soon as possible, and I am therefore sending the draft of the agreement in order that the Department may be acquainted with its provisions.

I have [etc.]

HARRY A. MCBRIDE

[Enclosure]

Draft agreement of June 24, 1918

Supplementary agreement entered into this _____ 1918 between Government of Liberia (hereinafter called The Government) of the first part and Bank of British West Africa Limited (hereinafter called The Bank) of the second part.

¹Ante, p. 521.

1. This agreement shall be supplemental to and shall be construed in conjunction with the agreements of 4th February 1916 and 21st February 1917.¹

2. (a) In addition to the services rendered by the Bank under the foregoing agreements the Bank, in consideration of the guarantee given in the agreement of _____ 1918 signed by representatives of France, United Kingdom, United States of America, and Liberia, shall during the month of _____ 1918 and each month thereafter during the continuance of the present war and for twelve months thereafter, at the request of the Liberian Government approved by the General Receiver of Customs, advance to the Government a sum not exceeding 10,000 dollars for the purpose of making payments authorised by the budget as passed by the Liberian Legislature. The money so advanced shall be placed to the debit of a No. 3 account. Provided that if and when the balance standing to the debit of the No. 3 account shall have reached the sum of 150,000 dollars no further advances shall be granted by the Bank.

(b) In consideration of the agreement contained in the last preceding sub-clause (a) and of the advances to be made thereunder, the Government hereby extend the life of the depositary agreement until the 31st December 1922, or until such later date as and when the entire indebtedness of the Government to the Bank under this agreement shall have been repaid.

3. In addition to the monthly advances authorised in Clause 2 the Bank shall, at the request of the Liberian Government approved by the General Receiver of Customs, advance to the Government and debit to their No. 3 account a sum not exceeding \$10,000 in any calendar year for the purpose of making payment of interest upon the new 3 per cent internal bonds and for redemption of such internal bonds with any balance of the said \$10,000 not absorbed by interest payments. All bonds so redeemed shall be handed to the Bank for cancellation and shall remain in the custody of the Bank.

4. If at any time during the life of this agreement, owing to the exigencies of war or by reason of general or specific instructions issued by the British Government, the Bank shall be unable to give effect to any or all of the provisions of this agreement or the depositary agreement, it is understood and agreed that no liability shall attach to the Bank.

5. The terms upon which the Bank shall make advances to the Government under Clause 2 subclause (a) and Clause 3 of this agreement are as follows:

- (a) A commission of one-half of one per centum upon the principal amounts of each loan.
- (b) Interest to be charged at the rate of seven per centum per annum upon the daily balance standing to the debit of the Government's No. 3 account, with the Bank.
- (c) The commission shall be paid at the time each loan be made and a statement of interest shall be furnished by the Bank to the Secretary of the Treasury monthly, when settlement will be made.

6. When the Bank under the provisions of Clause 2 (Section (a)) or Clause 4 of this agreement shall cease to make further advances to the Government, all of the revenues deposited with the Bank up to the sum of ten thousand dollars (\$10,000) monthly shall be available for expenditure by the Government as authorised by the budget notwithstanding any indebtedness which may be outstanding against the Government with the Bank at that time. All sums deposited in excess of ten thousand dollars (\$10,000) monthly shall be retained by the Bank and placed toward the reduction of the Government's indebtedness to the Bank in respect of advances made and charges thereon under the agreement dated 21st February, 1917, until such indebtedness be extinguished, after which the revenue in excess of \$10,000 per month shall be retained by the Bank and applied in reduction of the indebtedness under this agreement.

7. During the life of this agreement the Bank on their part agree, subject to the provisions of Clause 4 hereof, to maintain a banking establishment at Monrovia, as at present, for the purposes set out in the depositary agreement as amended. If at any time during the life of these presents the Bank shall dispose of the whole or any portion of their business in Liberia, the Bank shall have the right to transfer this agreement to any bank, firm, or company that may thus become their assigns.

¹ *Foreign Relations, 1917*, p. 889.

8. In the event of the Bank having in its possession at the expiration of the period provided by Clause 2(b) hereof for the termination of the depositary agreement any Liberian silver or copper coin received by the Bank under Clause 4 of the depositary agreement, the life of the depositary agreement shall be extended until the Government shall have taken back the whole of such silver or copper coin if so requested by the Bank, as provided for in Clause 4 of the depositary agreement.

9. This agreement shall run concurrently and expire with the depositary agreement as set forth in Clause 2 Sub-clause (b) and Clause 8 hereof.

10. The General Receiver of Customs shall in his official capacity as Financial Adviser to the Liberian Government sign this agreement as evidence that same has received his consideration and meets with his approval.

File No. 882.51/809

*The Acting Secretary of State to the Secretary of the Treasury
(McAdoo)*

WASHINGTON, July 25, 1918.

SIR: On July 11 I transmitted to your Department a copy of a despatch from the American Legation at Monrovia which enclosed a copy of an agreement proposed by the Bank of British West Africa as the basis of a financial arrangement between Liberia and the Bank. A perusal of this agreement shows very clearly that the Bank of British West Africa is attempting, in exchange for advances made from time to time to the Liberian Government, to obtain a political control of and supervision over the Government of Liberia. The acceptance by the Government of Liberia of the proposals of this bank under the bank's settled general financial policy would set aside and render unnecessary the position of American Financial Adviser under the loan of 1912, mentioned in this Department's letter of June 1, and would thus take much of the oversight of the financial affairs of Liberia from the present control of the United States through the Financial Adviser.

The Chargé d'Affaires in his covering despatch states that "if the needed assistance can not be gotten through the United States, the future outlook for the Republic is exceedingly gloomy" and that "the Liberian Government is anxiously waiting for some word from the Department on this very vital matter."

In this connection I beg to refer once more to this Department's letter to you of June 1, commanding the application of the Liberian Government for a loan from the United States, and to add the following observations for your consideration:

The Liberian State was founded by free negroes, sent by the American Colonization Society in 1822, and in 1847 Liberia was declared an independent State by the Government of the United States. Since that time this Government has followed with sympathetic interest the fortunes of Liberia and has lent to the Liberians encouragement and assistance in their endeavor to establish a free government based on democratic principles.

Shortly after the outbreak of the European war, Liberian trade became disorganized, owing partly to the British black list operating against the German traders in Liberia, and partly to the fact that the British coastwise traffic had been greatly restricted. After the United States entered the war, the conclusion was reached that it

would be desirable for Liberia to rid herself of the German population in Liberia, in order that she might be free from German intrigue and commercial domination. This Government communicated with the British Government and obtained its assurance that all restrictions on Liberian trade would be withdrawn, provided that all Germans were removed from Liberia and that the Liberian Government took such measures as would effectively prevent German business from being carried on by persons who would merely act as representatives and restore them to their original owners *in statu quo* as soon as the war was over. The Liberian Government declared war upon Germany, and shortly after such a declaration was made, the German residents were removed. The Government of the United States thus stands in a peculiar relation to the action of the Liberian Government in declaring a state of belligerency with Germany and should, it seems to me, in view of its historic interest in that country and as nearest friend of Liberia, relieve the Liberians so far as practicable of the burdens resultant from the state of belligerency.

Unfortunately through the extension of submarine activities and the consequent decrease in world tonnage, it has not been practical up to the present time to restore active trade with Liberia, and as a result, the conditions in that country have been going from bad to worse until at last they have reached the present critical stage. In this emergency the Bank of British West Africa has made its offer to the Liberian Government, which Liberia will have no alternative than to accept unless immediate financial assistance is forthcoming from the United States.

The position of this Department is that the United States, having created Liberia and later encouraged her to enter the war against Germany, should come to her assistance now that that Republic is suffering acutely from the result of the war. If the assistance from the United States is not forthcoming, Liberia will be forced to accept the assistance offered by the Bank of British West Africa which, as I have pointed out, will place her in a position dependent to a powerful British institution.

It is against the policy of this Government at the present time to permit the State of Liberia to be forced into a position where she will be dominated or controlled by any European Government or its agent.

I have [etc.]

FRANK L. POLK

*The Acting Secretary of State to the Secretary of the Treasury
(McAdoo)*

WASHINGTON, August 5, 1918.

SIR: Referring to this Department's letters of June 1 and July 11 last, concerning the appeal made by the Government of Liberia for a loan of \$5,000,000 from the United States, I have the honor to enclose herewith a copy of a despatch from the American Consulate General at London,¹ transmitting a proposed supplemental agreement between the Government of Liberia and the Bank of British

¹Ante, p. 531.

West Africa, which has been submitted by the Bank to the British Foreign Office, to be later forwarded to the French Government and the Government of the United States.

I send this paper to you as a further evidence of the danger of the financial control of Liberia passing from the United States unless the financial relief sought by Liberia is granted by this Government.

I have [etc.]

FRANK L. POLK

File No. 882.51/817A

The Secretary of State to the Chargé in Liberia (Bundy)

[Telegram]

WASHINGTON, August 12, 1918, 6 p. m.

Department still endeavoring to arrange financial assistance for Liberia.

Cable what, if any, aid Liberia has lately received from Bank British West Africa.

LANSING

File No. 882.51/818

The Chargé in Liberia (Bundy) to the Secretary of State

[Telegram]

MONROVIA, August 14, 1918, 4 p. m.

Department's August 12, 6 p. m. Bank British West Africa has given no aid to Liberia other than monthly advance of \$9,000 under its agreement with Government of February 21, 1917. On August 1 indebtedness to Bank on account of advances under said agreement was \$91,000. Advances will cease when indebtedness reaches \$100,000. It is estimated this will be not later than October 1. As far as known, bank's attitude towards extending further financial aid to Liberia after \$100,000 limit of loan is reached, remains much the same policy.¹

BUNDY

File No. 882.51/820

The Assistant Secretary of the Treasury (Leffingwell) to the Secretary of State

WASHINGTON, August 27, 1918.

SIR: Referring to our previous correspondence in relation to a loan to the Republic of Liberia, the President has approved the establishment of a credit in favor of the Liberian Government in the amount of \$5,000,000.

I have not before me sufficient data in order to determine what advances should be made to the Liberian Government, and will be obliged if you will furnish me with such information on this sub-

¹ Copy of above telegram was referred to the Secretary of the Treasury, August 16, 1918.

ject as you have available and will also arrange to put the representative of the Liberian Government in touch with this Department so that the amount of such advances can be determined. The Treasury would also like to have your judgment as to the political expediency of immediately establishing a credit of \$5,000,000 in favor of Liberia without waiting to determine the amount of advances from that credit which the Treasury would be prepared to approve at the present time. From the rather incomplete data before me on the subject, I am inclined to the opinion that it will not be necessary at the outset to advance to Liberia more than a comparatively small fraction of the amount authorized.

So as to avoid any delay in making advances to the Republic of Liberia, when the amount is determined upon, I suggest that the Department of State make such inquiries as will enable it to advise the Secretary of the Treasury that in its opinion the necessary formalities have been complied with so that the obligations of the Liberian Government, when executed in its name and on its behalf by such person as you shall name, will be regarded by the Department of State as valid and binding internationally and will have its sanction.

Respectfully yours,

R. C. LEFFINGWELL

The Secretary of State to the Secretary of the Treasury (McAdoo)

WASHINGTON, September 9, 1918.

SIR: I have the honor to acknowledge the receipt of your letter of August 27, 1918, in relation to the proposed loan to the Republic of Liberia and informing me that the President has approved the establishment of a credit in favor of the Liberian Government in the amount of \$5,000,000.

This Department understands that the mere establishment of a credit of \$5,000,000 does not bind the Treasury Department to make any advances until a satisfactory form of obligation has been agreed upon, nor does it fix the amount of advances from that credit which the Treasury Department is prepared to approve. With this understanding, this Department considers it desirable as a matter of policy immediately to announce that a credit of \$5,000,000 in favor of Liberia has been established.

In the meantime the necessary inquiries are being made so that this Department may be in a position as soon as possible to advise you as to the validity of such obligations of the Liberian Government as may be desired.

A memorandum has been prepared in the State Department setting forth the financial status of the Liberian Republic at this time and containing recommendations as to an arrangement that it may be advisable to make for certain officials of the Government. This memorandum may be of interest to you, and I am enclosing a copy for your information.¹

I have [etc.]

ROBERT LANSING

¹ Not printed.

File No. 882.51/822

The Assistant Secretary of the Treasury (Rathbone) to the Secretary of State

WASHINGTON, September 9, 1918.

SIR: I have the honor to acknowledge the receipt of your letter of September 9, 1918, addressed to the Secretary of the Treasury, stating that upon the understandings therein set forth you deem it desirable, as a matter of policy, immediately to announce that a credit of \$5,000,000 in favor of the Republic of Liberia has been established.

The aforesaid credit of \$5,000,000 in favor of the Republic of Liberia has been established by the direction of the Secretary of the Treasury, and I will be obliged if you will accordingly notify such representatives of the Government of Liberia as should receive notice of the same.

Respectfully yours,

ALBERT RATHBONE

File No. 882.51/823a

The Secretary of State to the Chargé in Liberia (Bundy)

[Telegram]

WASHINGTON, September 12, 1918, 4 p. m.

Treasury has established credit of \$5,000,000 in favor of Liberia. Before any part of this money is available, however, Department must have the following:

- (a) Copy of portion of Liberian Constitution providing for legislation authorizing the Liberian Government to borrow money;
- (b) Copy of law authorizing loan enacted in accordance with said provision of Constitution;
- (c) Copy of proceedings on the part of the Executive branch of the Liberian Government in accordance with said law;
- (d) Copy of full powers given Liberian representative in United States authorizing him to sign such obligations as may be necessary and to receive the advances or take such other steps as the Liberian law may require.

You are instructed to inform the Liberian Government immediately of the establishment of this credit and the legal formalities this Government considers necessary.

LANSING

File No. 882.51/858

The Chargé in Liberia (Bundy) to the Secretary of State

[Extracts]

No. 252

MONROVIA, September 24, 1918.

SIR: I have the honor to make the following report with reference to the steps taken by the Legation to carry out the instructions of the Department's cable of September 12, 4 p. m., concerning the

decision of the United States Government to establish a credit of \$5,000,000 in favor of Liberia. . . .

There was great rejoicing among Government officials and the public generally when the announcement was made that the United States had decided to come to the financial relief of the Republic. On all sides there were expressions of satisfaction and gratification over the successful outcome of the appeal of the Republic to the United States for aid. . . .

Enclosure No. 2 is a copy of the reply of President Howard appropriately acknowledging the Legation's note informing him that the credit of \$5,000,000 had been established. Without the slightest doubt the President is profoundly grateful to the Government of the United States for the timely assistance it has decided to extend to Liberia. In conversation with me he has expressed himself as feeling that this action of the United States makes the future of the Republic secure. And he evidently takes very keen pleasure in the fact that during his administration the United States has consented to take action which practically gives Liberia a new lease of life.

To the reply of the Secretary of State, enclosure No. 3, which is also very appreciative, are attached certified copies of the following documents which the Department indicated its desire to receive before any portion of the loan could be available:

- (a) Certified copy of Sections 10 and 16 of Article 1, of the Constitution of Liberia, together with a certified copy of an opinion of the Attorney General of Liberia, as to the constitutionality of legislation by the Legislature of Liberia authorizing the Republic to borrow money.¹

These copies are intended to furnish the Department with the documents called for in paragraph (a) of its cable of September 12, 1918, which reads:

Copy of portion of Constitution providing for legislation authorizing the Liberian Government to borrow money.

- (b) Certified copy of a joint resolution approving of the actions of the President in severing official relations with the Government of the German Empire and declaring the existence of a state of war between the Republic of Liberia and the Government of the German Empire.¹

The 4th section of this act reads:

That the President of the Republic be and he is hereby authorized and fully empowered to take all and every precaution to ensure, and to make every and any necessary provision to maintain the security of the State and its essential interest which the present international condition in his discretion justifies.

This copy is furnished¹ as the document required by paragraph (b) in Department's cable of September 12, 1918, which reads:

Copy of law authorizing loan enacted in accordance with said provision of the Constitution.

¹ Not printed.

The Secretary of State maintains that the Executive Government of Liberia has ample authority under Section 4, quoted above, of the resolution mentioned, to approach the Government of the United States for financial assistance in the shape of a loan of \$5,000,000. The Legation has considerable doubt as to the advisability of the Executive Government making use of the power conferred on the President by Section 4 to raise a loan. It would seem that a specific law authorizing the loan would be much better. But this question is passed on to the Department for its consideration and determination.

- (c) Copy of a memorandum of a Cabinet meeting, on January 10, 1918, and resolutions passed thereat advising the President to approach the Government of the United States for a loan of \$5,000,000.

This document is submitted in response to the requirement of paragraph (c) of Department's cable of September 12, which calls for

Copy of proceedings on the part of the Executive branch of the Liberian Government in accordance with said law.

- (d) Copy of commission given Consul General Lyon as special agent of Liberia.¹

This copy is intended to furnish the document required by paragraph (d) of Department's cable of September 12, which reads:

Copy of full powers given Liberian representative in United States authorizing him to sign such obligations as may be necessary and to receive the advances or take such other steps as the Liberian law may require.

The Legation is advised that the President will call a special session of the Legislature to enact whatever additional legislation may be considered necessary to deal properly with the application of the loan.

Should the Department think any of the documents herewith transmitted are inadequate or defective, the President has assured me that any alterations required will be promptly made.

I have [etc.]

RICHARD C. BUNDY

[Enclosure 1]

The American Chargé (Bundy) to President Howard of Liberia

MONROVIA, September 17, 1918.

SIR: I have the honor, as well as the very great pleasure, to inform you that the Legation has just received a cable from the Secretary of State, at Washington, in which it is stated that the Treasury has established a credit of \$5,000,000 in favor of Liberia. Before any part of this money is available, however, it is necessary that the Department of State should receive in proper form the following:

- (a) Copy of portion of Liberian Constitution providing for legislation authorizing the Liberian Government to borrow money;
- (b) Copy of law authorizing loan enacted in accordance with said provision of the Constitution;
- (c) Copy of proceedings on the part of the Executive branch of the Liberian Government in accordance with said law;

¹ Not printed.

- (d) Copy of full powers given the Liberian representative in the United States authorizing him to sign such obligations as may be necessary and to receive the advances or take such other steps as the Liberian law may require.

In conveying this more than pleasing information I wish also to express to Your Excellency, as well as to the Liberian Government and people, my heartiest congratulations on the signal success which has been achieved by obtaining the consent of the Government of the United States to arrange the financial aid requested by the Republic.

I have [etc.]

RICHARD C. BUNDY

[Enclosure 2]

President Howard of Liberia to the American Chargé (Bundy)

MONROVIA, September 19, 1918.

SIR: I am in receipt of your communication of the 17th instant informing this Government that the Government of the United States had established, through its Treasury, a credit of \$5,000,000 in favor of Liberia. In reply, I take the opportunity to request you to be good enough to convey to the Government of the United States my most grateful sentiments of appreciation, as well as those of the Government and people of Liberia, for its prompt and generous response to the earnest appeal of the Republic for the financial aid so urgently needed.

This benevolent action on the part of the United States, taken at a moment when the Republic is confronted with very grave problems arising from its financial embarrassment due to war conditions, has profoundly impressed the Liberian people with the cordial good will and sympathetic interest of the Government of the United States toward the welfare and perpetuity of Liberia.

Cordially and sincerely yours,

D. E. HOWARD

[Enclosure 3]

The Liberian Secretary of State (King) to the American Chargé (Bundy)

MONROVIA, September 20, 1918.

MR. CHARGÉ D'AFFAIRES: I have the honor to acknowledge the receipt of your note dated September 17, 1918, stating that with reference to my confidential note No. 10/D addressed to you on the 11th of January last,¹ it now affords you very great pleasure to advise me that you are in receipt of a cable from your Government instructing you to inform the Liberian Government that the Treasury of the United States Government has established a credit of \$5,000,000 for Liberia, but that before any part of this money is available it is necessary for that Department to have the following:

- (a) Copy of portion of Liberian Constitution providing for legislation authorizing the Liberian Government to borrow money;
- (b) Copy of law authorizing loan enacted in accordance with said provision of the Constitution;
- (c) Copy of proceedings on the part of the Executive branch of the Liberian Government in accordance with said law;
- (d) Copy of full powers given the Liberian representative in the United States authorizing him to sign such obligations as may be necessary and to receive the advances or take such other steps as the Liberian law may require.

The information conveyed in your note, now under consideration, I can assure you, Mr. Chargé d'Affaires, is most gratifying and pleasing to the Liberian Government. Accordingly, I am directed by His Excellency, the President of Liberia, to request you to be good enough to convey to the Government of the United States of America the grateful appreciation of the Government and people of Liberia of the ready response made to their appeal for financial aid and assistance from the Government of the United States.

This generous act on the part of your Government can not but be regarded as the practical expression of that benevolent and friendly interest and concern which the Government and people of the United States have in Liberia's prosperity and development and the financial stability of her Government.

¹Ante, p. 510.

As to the requirements necessary to be had by the Treasury of the United States before any part of the credit of \$5,000,000 can be available to the Liberian Government, I am further directed by the President to make the following observations thereon with regard to paragraph (a) and (b) of your said note.

1. There is in the Liberian Constitution no express provision granting the Government or the Legislature authority to borrow money or to pledge the credit of the Republic. The power to do so, however, inheres in the idea of a state or sovereignty, and is implied in the general objects, purposes, and aims which government is established to secure.

In construing the Constitution of Liberia from the point of view of financial legislation, it is necessary to understand that its provisions with reference to the powers of the Legislature are not in the nature of grants, but are rather limitations upon the plenary powers which that Department of Government inherently possesses.

This fundamental idea being understood, it will to a great extent explain the reason why there is in the Constitution of Liberia no express provision granting the Government or the Legislature authority to borrow money or to pledge the credit of the Republic.

Thus it will be seen that the right of borrowing money or pledging the credit of the Republic by the Government or Legislature of Liberia has always been exercised under the implied powers of the Constitution.

The opinion of the Attorney General bearing upon this point is herewith enclosed to more fully elucidate the position taken by the Government.¹

2. Law authorizing loan enacted in accordance with provision of Constitution.

The National Legislature of Liberia at their call session of 1917, passed a joint resolution approving the actions of the President of Liberia in severing official relations with the Government of the Imperial German Empire, and declaring the existence of a state of war between the Republic of Liberia and that Empire.

The fourth section of said joint resolution provides,

That the President of the Republic be and he is hereby authorized and fully empowered to take all and every precaution to ensure, and to make every and any necessary provision to maintain the security of the State and its essential interests which the present international condition in his discretion justifies.

The winding up, by the Liberian Government, after its declaration of war against the Imperial German Empire, of all German mercantile firms in Liberia, which at that time represented about 90 per cent of Liberia's trade, together with the most disastrous effects upon Liberia's over-sea trade and commerce, due to Germany's extended submarine activities, so seriously affected the financial and economic interests of the Republic as to put in jeopardy the security of the State.

The Executive Government of Liberia therefore deemed it expedient to avail itself of the war powers granted to the President of the Republic by Article 4 of the joint resolution herein above cited, by approaching the Government of the United States of America with an appeal for financial aid and assistance in the shape of a loan of not less than \$5,000,000.

Copy of said joint resolution is herewith enclosed,¹ together with copy of Cabinet's resolution advising the President to negotiate with the Government of the United States of America, a loan of not less than \$5,000,000.

A copy of the full powers given to the Liberian Representative in the United States authorizing him to sign such obligations as may be necessary and to receive the advances or take such other steps as may be necessary by the laws of Liberia and the laws of the United States to effect said loan is also herewith enclosed.¹

With renewed assurances [etc.]

C. D. B. KING

[Subenclosure]

Resolution of the Cabinet of Liberia

At a meeting of the Cabinet of Liberia held at the Executive Mansion on the 10th of January, 1918, the President of the Republic presiding, the Hon-

¹ Not printed.

ourable Secretary of the Treasury submitted a confidential memorandum on the present financial situation of the Republic for the consideration of the Cabinet. Thereupon the memorandum was taken up and discussed from its various angles, after which the following resolution in relation thereto was adopted by the Cabinet:

Resolved that in the opinion of the Cabinet of Liberia, the financial and political dangers at present threatening the Republic, as foreshadowed in the confidential memorandum submitted by the Honourable Secretary of the Treasury are so imminent as to warrant a strong and candid appeal by the Liberian Government to the Government of the United States for relief, without delay by;

(a) The granting of a loan of not less than \$5,000,000 to enable the Republic to cancel the refunding loan of 1912 and establish a receivership under American control alone; to take up our internal floating indebtedness; to stimulate education, agriculture, and industry, and to inaugurate such public works as will operate for the complete financial and economic rehabilitation of Liberia.

(b) By the loan of additional American agents to assist the Government in perfecting its desires and plans for effective administration and control, both in the several Departments of Government and in the administration of our hinterland.

C. D. B. KING
Secretary of State

File No. 882.51/837

The Chargé in Liberia (Bundy) to the Secretary of State

[Telegram]

MONROVIA, October 1, 1918, 6 p. m.

Department's September 17, 4 p. m.¹ Liberian Government has furnished Legation itemized statement of the public debt as follows:

Refunding loan of 1912, principal and arrears of interests	\$1,608,000
Registered internal floating indebtedness	267,661
[Note] Of this item German merchants formerly in Liberia hold claims amounting to \$64,224.	
Arrears of salary due officials of Government proper	12,487
Arrears of salary due officials of customs service	21,810
Balance due on revenue cutter	9,762
Arrears of pay due soldiers of Liberian frontier force	79,238
Obligations of receivership on account of Liberian frontier force, outstanding bills, and for other miscellaneous bills	2,035
Due mining company for loan made of	8,000
Balance due on Woermann head money contract	4,083
[Note] This item is a German claim.	
Unpaid awards to German merchants for damages sustained during native uprising	5,601
Due estate of James G. B. Lee	1,720
Due on account sundry departmental bills	3,092
Indebtedness to Bank of British West Africa	94,064
Indebtedness of Post Office Department on account money orders and sea transit fees	15,969

Total of above items makes the public debt equal \$2,133,552, all of which excepting German claims Liberian Government wants to pay from loan. Adjustment German claims must await termination of war.

¹ Not printed.

In applying loan and effecting necessary reorganization in Governmental administration, Liberia, assuming that present receivership will go out of existence, desires the Government of the United States to designate for appointment by the President of Liberia the following American officials; all salaries and allowances mentioned are per annum. First, financial adviser, salary \$5,000, to be associated with Secretary of the Treasury in centralized control of collection and disbursement of all Government moneys including postal revenues and the manufacture of postage stamps. Second, Government auditor as previously requested, salary \$4,000. Third, Controller of Customs, salary \$3,500, and two deputy controllers, salary \$3,000 each. It is desired that these three officials establish new customs régime and that their functions shall be solely collection of customs revenue and management of customs service. Fourth, Commissioner General, salary \$3,500, and traveling allowance yearly, \$1,000. Four commissioners, salary \$2,500 each, and traveling allowance yearly, \$500 each. Fifth, two officers with rank captain for Liberian frontier force, salary \$1,600 each, and allowance quarters, \$300 each.

To preserve order and establish effective interior administration Liberian Government thinks it necessary to increase frontier force to 1,000 men. Cost of maintaining force at this number for first year estimated at \$150,000, but increase of revenue from orderly administered interior expected materially reduce this cost in succeeding years.

It is estimated that \$130,000 per annum will be needed while war lasts to supplement current revenues to enable Government to pay its annual budget approved by Financial Adviser. This would be necessary to prevent creation of another floating debt.

After providing for foregoing, Government desires to use residue of loan as follows: (a) Amount the United States Government may require to cover interest petty loan until interest can be carried by current revenues; (b) roads and bridges; (c) telegraphs and telephones; (d) improvement of a harbor at Monrovia with a view to making port a coaling cargo station with modern appliances for handling cargo; (e) organization public school system; (f) agriculture; (g) customhouse at Monrovia.

Expenditures for all items in above paragraph to be under control of the Secretary of the Treasury, Financial Adviser, and upon the advice and estimates of such American experts as the Government may require.

Liberian Government states desire to pay whole of its indebtedness to British bank from loan.

BUNDY

File No. 882.51/848

The Secretary of the Treasury (McAdoo) to the Secretary of State

WASHINGTON, October 17, 1918.

SIR: In order to determine the extent to which the credit of \$5,000,000 hitherto opened to the Republic of Liberia shall be made available to that Government it becomes necessary in the first place

for this Department to know to what extent the Governments of Great Britain and France are to be parties to any new arrangement.

Unless further study should modify the views expressed below, it is the plan of this Department to make advances to Liberia for the purpose of accomplishing the following ends:

(1) *To pay the arrears of interest on the 5 per cent bonds of 1912.*

In connection with the payment of these arrears this Department will seek to obtain modifications of the trust agreement under which those bonds were issued so that provision will be made, among other things, for a sinking fund dependent on the revenues of Liberia instead of being fixed at a minimum amount as under the present agreement. In this way the sinking fund never can become a source of embarrassment to that Government. It is not equitable, nor is it feasible to exact from Liberia the repayment of its indebtedness at a rate greater than the resources of that country will permit, and I believe that the holders of the bonds will fully recognize the justice of this contention and assent to proper modifications as a condition for the advance by the United States of the funds necessary to pay the arrears of interest.

(2) *To loan to Liberia the sums necessary to discharge the debts due to the British Bank of West Africa.*

Other payments will undoubtedly be required to liquidate back salaries of officials, internal debts, and to provide for needed road improvements, etc., on some moderate scale.

So far as any such amounts are due to alien enemies of the United States, payment will either be made to the Alien Property Custodian or will be withheld in the Treasury of the United States until such time as their final disposition would be determined.

I should be glad to have an expression of the views of your Department as to the propriety of the above program. You will observe that that program involves two necessary steps: (1) A new arrangement with the bondholders of 1912; (2) some sort of supervision for the purpose of adjusting the internal debts, etc., of Liberia. Each of these steps will be different in point of form if the United States acts alone in this matter than they will be if Great Britain and France are to be associated with the United States.

Very truly yours,

W. G. McADOO

File No. 882.51/853

*The Assistant Secretary of the Treasury (Rathbone) to the
Secretary of State*

WASHINGTON, November 11, 1918.

SIR: I beg to refer to the credit of \$5,000,000 which has been established by the Treasury Department for the Republic of Liberia.

It is the opinion of the Treasury Department that prior to the making of any advances to the Republic of Liberia from the above-mentioned credit, it should be provided among other things that a general receivership to collect and administer the total revenues of the Republic be established.

Because of the obvious disadvantage of the separate administration of this proposed general receivership, and of the present inter-

national customs receivership instituted under the agreement for refunding loan entered into between the Republic of Liberia and certain banking institutions in New York, London, Paris, and Hamburg, it is essentially desirable that the general receivership should entirely absorb the existing customs receivership.

Inasmuch as the present loan is to be made by the United States only, there is of course no reason for the general receivership to assume an international character in its service of the present loan. On the other hand, after the establishment of the general receivership, a continued performance therein by the French and British receivers of their present duties, with no participation in the added functions of the general receivership, would present an awkward, if not insurmountable obstacle to successful administration.

For the reasons above stated, and equally to make possible for the proposed general receivership a maximum of efficiency, which is most difficult to attain when division of power and responsibility exists, it is the opinion of this Department that any general receivership of the revenues of the Republic of Liberia which may be established, as a condition to the proposed advances, should be a one-power receivership under the control of the United States.

In view of the fundamental character of this question, prior to a decision thereon, no permanent plan with reference to the general question of advances to Liberia can be prepared.

I shall be obliged if the Department of State will advise this Department of its opinion on this question and of any action which it may propose to take thereon, to the end that the Treasury may formulate a detailed plan of procedure.

Very truly yours,

ALBERT RATHBONE

File No. 882.51/876a

*The Acting Secretary of State to the Chargé in Great Britain
(Laughlin)¹*

[Telegram]

WASHINGTON, December 7, 1918, 4 p. m.

3323. Following is substance of memoranda handed to representatives of British and French Embassies November 19, 1918:

In connection with credit \$5,000,000 which has been established by United States Treasury Department for Republic of Liberia, it is planned by Government of United States to take following financial steps in converting Liberian loan of 1912 and administering affairs of Liberia:

1. Readjust international obligations of Liberia financially through supplementary amendment to refunding loan agreement of 1912, reconstructing and converting loan and its administration into an all-American receivership. It will be unnecessary to pay off or refund international loan of 1912 and float new one, but bonds may remain where they are except as individuals may wish to dispose of their holdings. In individual cases bonds might be bought for sinking fund, but seems unlikely that any considerable number will be offered now if interest promptly met.

2. Create an American Receivership of Customs and Internal Revenues, including departmental fees and port charges every nature, to be administered through American assistance to the general receiver of customs and Financial Adviser of Liberia.

¹ The same (No. 6560), on the same date, to the Ambassador in France.

3. All arrears interest on refunding loan of 1912 to be paid to date at once, and future payments interest to be promptly met from month to month. Until revenues Liberia sufficient to meet this charge, necessary funds will be advanced by United States from loan-credit of \$5,000,000 recently granted Liberia.

4. Payments to be made of unbonded arrears salary claims and bills against Liberia or receivership on joint approval Secretary of Treasury of Liberia and Financial Adviser. Practically all such arrears, claims, and bills were investigated, registered and bonded to and including July 1, 1918, by a domestic debt commission, consisting of Secretary of Treasury and Financial Adviser. Many claims and evidences of indebtedness were rejected. Domestic debt thus bonded amounts to about \$200,000. This does not include claims enemy subjects.

5. Payment to be made of contemplated sinking fund and interest on domestic bonds issued by Liberia as of July 1, 1918.

6. Until revenues Liberia will permit it to assume such expenses, advances will be made from time to time on certificate of and through general receiver, of such sums as may be necessary for administrative expenses of Liberia or receivership; pay interest or sinking fund on domestic or international obligations; readjust indebtedness; provide improved transportation facilities by land and sea, as well as improved means for transmission mail and messages; provide harbor improvements, especially at Monrovia; assist organizing and maintaining modern public school system; provide scientific system intensive agriculture; provide sanitation and system potable water; establish and maintain just equitable administration of hinterland; maintain effective and efficient military police or constabulary as peace organization under American military officers, and develop potential resources and possibilities of Liberia.

In handing these memoranda to British and French representatives, they were informed that this Government contemplated proposed action merely as means of assisting Liberia; that the international arrangement by which responsibility was divided among four Governments had not proved a working plan, but very expensive and cumbersome; that this Government is deeply interested in welfare of Liberian people and desires to give them in this way an opportunity to prove whether they may not themselves improve their own condition; that the new credit is to be used for betterment of conditions generally and development of Liberia. Representatives were also told that this Government hoped that their Governments would receive the matter sympathetically.

For your information: This is a matter which is of importance and Department desires to know at earliest possible moment attitude of Government to which you are accredited.

POLK

File No. 882.51/878

The Ambassador in Great Britain (Davis) to the Secretary of State

[Telegram]

LONDON, December 21, 1918, 1 p. m.

4796. Important. Your 3323, December 7, 4 p. m. Foreign Office has confirmed formally the views set forth in my 4527 December 11, 5 p. m.¹ and states that the Chargé d'Affairs in Washington has been telegraphed instructions to inform the Department that British Government appreciate the force of American contention regarding the advantage of replacing the present method of administrating Liberian finances and affairs, but suggest that the question should

¹ Not printed.

be considered with other analogous questions at the approaching Peace Conference. Repeated to Paris.

DAVIS

File No. 882.51/884

The Chargé in France (Bliss) to the Secretary of State

[Telegram]

PARIS, December 30, 1918, 11 p. m.

6568. Department's 6560, December 7, 1 p. m. In reply to the Embassy's note which transmitted the Department's communication relative to a loan to the Liberian Government and requested information regarding the attitude of the French Government thereon, I have received a note from the Ministry for Foreign Affairs of which the following is a translation of the pertinent portions.

The Government of the Republic has taken note with pleasure of this declaration, namely, on the one hand, that the Government of the United States has no intention of establishing a protectorate over Liberia nor to bring about any change in its international status, and on the other hand, that French interests in Liberia will be safeguarded but, if the financial plan set forth in the American Government's memorandum is put into effect with its consequences, there would be a question nevertheless of the establishment of a real protectorate by the United States over Liberia, whose entire administration would be placed thereby under the control of this sole power and which would thus take on the responsibility therefor.

If such is not the intention of the Federal Government it should be inclined to accept the invitation of the French and British Governments to collaborate equally in the financial assistance of the Black Republic and to continue the work begun in 1912, it being well understood that Germany is excluded.

It is said that the financial Entente established in 1912 has not given the expected results. This is undoubtedly due, on the one hand, to the fact that the funds placed at the disposition of the Black Republic were insufficient, and on the other hand, to the fact that the Germans attempted by their intrigues to acquire predominance in Liberia.

As the Federal Government knows, the French Government has no aim threatening the independence or integrity of Liberia. It desires only to participate in the economic development of a country bordering French possessions which of necessity will have relations therewith as neighbors.

BLISS

MEXICO

BORDER DISTURBANCES

Firing across the Boundary between the United States and Mexico and Crossing into Mexico by American Troops in Alleged Violation of the Sovereignty of Mexico; Violation of the Sovereignty and Neutrality Laws of the United States by Mexican Conspirators, Troops, and Raiders; Pursuit of Mexican Bandits into Mexico by United States Troops¹

File No. 812.0144/45

The Mexican Ambassador (Bonillas) to the Secretary of State

[Translation]

No. A-928

WASHINGTON, December 18, 1917.

EXCELLENCY: I regret to inform your excellency that the Department of State of my Government has forwarded to me the following report from Gen. J. C. Murguía, commander of the garrison at Ciudad Juárez:

By telegram No. 88 dated the 10th instant a report was sent to the citizen Gen. E. Hernández, Chief of Military Operations, in the matter of the firing of shots at the ford of the island, which came from the American troops without being returned from the Mexican side, as it appears from the investigation of the case and the declarations of two men who were picked up on the river bank wet through, one of them wounded, who said that they tried to cross to the American side at about 9 p. m. in company with a 50-year-old lady, the sister of one of the men, and were spied before they were half way across the river by the American guards who, without a warning of any kind, fired more than 60 shots at them, killing the woman and wounding one of the men, and the woman fell in the water. She was carried off in the stream and they hastily ran back to the Mexican side. The American patrols very often fire on the revenue officers along the dividing line and have killed their horses. In every case the firing was not returned from the Mexican side, for the revenue officers as well as the soldiers on watch duty were under positive orders not to fire as much as one shot at the American side. The foregoing is here transcribed for your information.

Supplementing my telegram of November 5 I have the honor to transcribe the message I have just received from the S. M. of Ciudad Juárez:

Your telegram 2026. On October 30 last, Francisco and Luis O-Gas and Mrs. Matilde Torres tried to go over to the American side at the Libertad Gate. It might have been 3 or 4 in the afternoon. As they can not read and were asked for the bath ticket, they could not meet the requirements and were turned back. The same persons tried to cross the river one kilometer away from the Reforma Gate between 10 and 11 in the night, when Francisco lost a shoe about the middle of the stream and cried out to Luis to leave him behind and go on. It was then that the American soldiers noticed their presence and immediately opened a steady fire which sent the men back to the Mexican side. Mrs. Matilde Torres who probably was hit by the bullets was carried away by the stream and drowned. She

¹The greater part of the correspondence relating to these subjects is not printed, as it deals merely with repeated incidents, reports, and proceedings similar to those here included.

has not been found yet although this command and that of El Paso, Texas, agreed to have searches made for her on both sides. Mrs. Matilde Torres was going over to see her children. I bring the foregoing to your knowledge with a request that by order of the citizen President of the Republic you may be pleased to send suitable instructions to our Ambassador at Washington to take steps to prevent the recurrence of such incidents.

The citizen Undersecretary of War and Marine on the same subject says as follows:

The citizen General Chief of Military Operations of the State of Chihuahua in his despatch No. 667 of the 2d instant reports as follows to this Department:

I have the honor to inform you of the contents of a message from General F. Murguia reading as follows:

I take the liberty of informing you that at about 9 p. m. yesterday steady firing was heard over the boundary line of the United States. Upon investigation two men were held who according to their own statement tried to cross to the American side with a 50-year-old lady and when about half way across were surprised by American troops which without a word fired their guns at them, killing the woman and wounding one of the men. From the Mexican side not one shot was fired. The judge has taken cognizance of the foregoing which I communicate to you for your information and transmission to the higher office. Respectfully.

I take the liberty of transmitting these communications to your excellency for your information and with the request that the military authorities be moved, through the proper channel, to have the said facts thoroughly investigated, the persons found to be guilty thereof punished, and appropriate measures taken to prevent a repetition of such acts.

I avail [etc.]

Y. BONILLAS

File No. 812.00/21577

The Secretary of State to the Chargé in Mexico (Summerlin)¹

[Telegram]

WASHINGTON, December 24, 1917, 6 p. m.

663. Department has given following statement to press:

The Department of State is informed that certain newspapers in Mexico are reproducing articles recently published in the United States to the effect that this Government is making preparations to cope with disturbances in the Tampico oil district and that American forces are held in readiness for that purpose. The Department of State desires to announce that there is no foundation whatever for the articles mentioned.

Publish substance foregoing. Tampico, Vera Cruz, and Guadalajara similarly instructed.

LANSING

File No. 812.0144/45

The Secretary of State to the Mexican Ambassador (Bonillas)

No. 324

WASHINGTON, January 4, 1918.

EXCELLENCY: I have the honor to acknowledge the receipt of your excellency's note No. A-928, of the 18th ultimo, in which you quote telegrams received by you from your Government wherein it is

¹ Similar telegram, on the same date, to the American Consuls at Tampico, Vera Cruz, and Guadalajara.

stated that Francisco and Luis O-Gas and Mrs. Matilde Torres, all Mexican citizens, while attempting to cross the Rio Grande, at the Reforma gate, on the night of October 30, 1917, were fired upon by American guards, and that the woman was killed and one of her companions wounded.

It is also stated, in one of the telegrams, that American patrols very often fire on the Mexican revenue officers along the dividing line, and have killed the latter's horses.

You request that these complaints be investigated; that the persons found to be guilty be punished; and that appropriate measures be taken to prevent a recurrence of such incidents.

In reply I have the honor to inform your excellency that I have sent a translation of your note to the Secretary of War, with the request that these complaints be investigated, and that such action be taken as may be called for by the facts as found. I shall be pleased to communicate with you in regard to the matter, as soon as I am informed of the result of the investigation.

Accept [etc.]

ROBERT LANSING

File No. 812.00/21694

The Mexican Ambassador (Bonillas) to the Secretary of State
[Translation]

No. A-1144

WASHINGTON, January 22, 1918.

EXCELLENCY: I have the honor to inform your excellency that the citizen Consul of Mexico at Tucson, Arizona, reports to me that the reactionaries residing in that town are arming Yaqui Indians and organizing an expedition with the object of invading the State of Sonora. The Consul has personally applied to the Federal officials whom he asked to watch the conspirators, and, failing to succeed in obtaining that they should not be permitted to violate the neutrality laws, he applies to the Embassy with a request that the said authorities be moved to enforce the neutrality laws.

The said Consul says the following in his despatch:

I have the honor to report to you that the reactionaries residing in this town have of late displayed great activity in their work against the interests of our country, holding daily meetings at which they conspire with the knowledge and connivance of the authorities to organize a Villista expedition to invade the State of Sonora. The men who hold those seditious meetings are: Carlos Randall, Lic. José Caballero, Alberto Morales, Francisco Arévalo, Bartolo Miquerray, Lic. Bustamante, ex-General Camberos, so-called Col. Juan Antonio García, Col. Juan Diaz Lopez, Miguel Santa Cruz, Dionisio Lacarra, Colonel Solares, and a multitude of Yaqui Indians who are constantly arriving in this town. The place where they meet is a house where secondhand articles, mostly arms, are sold, standing at 133 South Meyer Street and owned by Joaquín Carrillo, where they freely evolve their plans. I have given timely notice of all these doings to the Federal authorities of this town, whom I also furnished with precise data as to the said doings.

Our Secret Service agent having informed me that there were in the said house of Carrillo 19 Yaqui Indians on Wednesday last, who were being given arms and equipment, I personally called on the agent of the Department of Justice, Mr. Mock, whom I told about the movement of those men so that he would prevent their going, and I warned him that they were to be taken out of town in automobiles during the night and sent across into our territory. Our agent also reported to me that *Cabecilla* [Chieftain] Reyna who came to

get ammunition and war implements and make arrangements with the conspirators had arrived in this town. As the said Reyna had already broken the neutrality laws of this country, I again applied to the aforesaid agent of the Department of Justice, Mr. Mock, and asked for the arrest of Reyna and also of all the men who were then assembled in the Carrillo house, with plans, maps, and other seditious documents. Mr. Mock, despite the fine opportunity I gave him to take Reyna and the other seditious men in the act, asked me whether I could bring him some witness or he could commission some one to make sure that it was really Reyna who was with them. I replied to Mr. Mock that I knew that Reyna was there, having seen him with my own eyes, and that I asked for his immediate arrest. Mr. Mock, showing very little disposition to help me, told me to come to him again later and that he was going to watch the place, making excuses for not arresting him forthwith. I returned later and did not find him there, sufficient time having been given the said Reyna to escape well armed and equipped, as also to the Yaqui Indians who left with him. I have not yet been able to see the above-named agent of the Department of Justice who evidenced the greatest reluctance to perform his duties.

With a statement that I have put all the threads of these conspiracies in the hands of the authorities and also gave them timely notice of these movements without thus far succeeding in having any measure taken to prevent the unrestrained plotting against our Government, I take the liberty of most respectfully suggesting to you that you apply, if you deem it expedient, to the Department of State in order that the authorities of this place be more watchful of our enemies who brazenly and publicly flout their vigilance.

In bringing the foregoing facts to your excellency's knowledge, I ask that the unlawful acts herein denounced be investigated by the proper agencies, that condign punishment be brought upon those who may be found responsible, and that strict vigilance be exercised over the conspirators whose names have been given and their accomplices.

I personally know Carlos Randall, Alberto Morales, Francisco Arévalo, Bartolo Miquerray, ex-General Camberos, Juan Antonio Garcia and Dionisio Lacarra to have been in collusion with the unfaithful Villista José María Maytorena, whose agents they are at present and who are incessantly conspiring against the Government of Mexico at Los Angeles, California, and, through their agents, in various parts of the Sonora border.

I avail myself [etc.]

Y. BONILLAS

File No. 812.00/21679

The Chargé in Mexico (Summerlin) to the Secretary of State

[Telegram]

MEXICO, January 25, 1918, 10 p. m.

720. *El Demócrata* published an extra to-night stating that the Government of the United States is perfecting arrangements of armed intervention in Mexico, that Cuba and Canada have been invited by the White House to participate in occupying Tampico, Vera Cruz, and Progreso, thereby assuring the defense of the Gulf of Mexico against probable incursions of German submarines, and that the American Government has threatened to suspend food shipments to Cuba in case of refusal to participate. The despatch dated to-day purports to have been furnished by the Spanish American News Agency at Laredo.

SUMMERLIN

File No. 812.00/21679

The Acting Secretary of State to the Chargé in Mexico (Summerlin)

[Telegram]

WASHINGTON, January 26, 1918, 4 p. m.

726. You may announce publicly that entire story covered in despatch mentioned in your 720 is sheer fabrication, and on its face propaganda to disturb existing relations between two friendly Governments.

POLK

File No. 812.0144/51

The Acting Secretary of State to the Mexican Ambassador (Bonillas)

No. 351

WASHINGTON, January 26, 1918.

EXCELLENCY: Referring to the Department's note No. 324, of the 4th instant, in reply to your excellency's note of the 18th ultimo, on the subject of the killing of Mrs. Matilde Torres and the wounding of one of her companions by American guards, while the party was attempting to ford the Rio Grande, on the night of October 30, 1917, I have the honor to inform you that I am in receipt of a letter from the Secretary of War, dated the 23d instant, enclosing a report of an investigation of the matter that was made by the Commanding General of the Southern Department. This report, which is dated November 3, 1917, reads as follows:

On or about 9.45 p. m., Oct. 31, 1917, Privates Leo Dion and George McDole, Company H, 34th Infantry, who were patrolling from the Stanton Street bridge and stock yards east, discovered one man about 50 yards in the river going across. This man was too far away to stop. On reaching the other side this man whistled and was answered from the American side of the river. The patrol quickly ran to the spot where the man was seen crossing from, and discovered five people about 30 yards in the river crossing over. They were halted by Private Dion but continued across. He then warned them to halt or he would fire. Private McDole then shouted, "Halt, or I fire." As they still continued on across, Private McDole fired upon them merely as a warning. As this had no effect, both men then fired at them. As the people crossing reached the other side of the river they fired back upon the patrol. The patrol returned the fire and a scream was heard and one man was seen to fall. Thirty shots were fired in all.

The orders for this patrol the last week had been to allow no one to cross the river from this side and to stop all parties coming across.

Accept [etc.]

FRANK L. POLK

File No. 812.00/21694

The Acting Secretary of State to the Mexican Ambassador (Bonillas)

WASHINGTON, February 4, 1918.

EXCELLENCY: I have the honor to acknowledge the receipt of your excellency's notes Nos. A-1144 and A-1149, dated, respectively, the 22d and 23d ultimo,¹ in which you state that certain disaffected Mexi-

¹ Latter not printed.

cans residing in Tucson and Phoenix, Arizona, are arming Yaqui Indians and organizing an expedition, with the object of invading the State of Sonora, Mexico; and you request that steps be taken to punish the persons engaged in this enterprise, and to prevent violation of the neutrality laws of the United States.

In reply I have the honor to inform you that I have sent copies of the translation of your notes to the Secretary of War and the Attorney General, for their information and for such action as they may deem appropriate in the premises.

Accept [etc.]

FRANK L. POLK

File No. 812.0144/53

The Mexican Ambassador (Bonillas) to the Secretary of State

[Translation]

No. A-1294

WASHINGTON, February 11, 1918.

EXCELLENCY: I have the honor to inform your excellency that the Secretary of Foreign Relations of my Government has given me instructions, dated January 19 last, to deliver to your excellency the following note:

MR. SECRETARY OF STATE: I regret to have to inform your excellency that on December 29 last Major S. Wells, by order of Col. R. F. Day of the 3d Regiment of Infantry, in command of the American forces of the Eagle Pass district, crossed into Mexican territory with a force of Cavalry, as far as the San José ranch, where the American soldiers, after a scuffle with the inhabitants of the place, murdered Pedro Contreras whom the said forces had taken prisoner when he was unarmed and offered no resistance. The Consul of Mexico at Eagle Pass reports to the Department that the said Col. R. F. Day told him that the American War Department had instructed him to cross with troops into Mexican territory whenever he deemed it expedient, in pursuit of cattle thieves, limiting his stay to a certain number of hours and the number of men who might cross the border.

The Government of Mexico enters a formal and energetic protest against the violation of national territory implied in the above-mentioned facts and permits itself to express to the Government of the United States through your excellency the profound discontent created among the people and in the Government of Mexico by the facts above related and by the frequent violations of territory previously committed by American forces to the knowledge and with the connivance of the Government of the United States.

The Government of Mexico hopes that that of the United States will give due satisfaction for the violation of territory and other outrages committed by the regular American forces and that those guilty of such unwarranted conduct shall not escape punishment.

Finally I permit myself to advise your excellency that the Government of Mexico in the lawful defense of its most sacred unquestionable rights has issued orders to attack such American forces as may tread the territory of the Republic.

I avail myself [etc.]

By order of my Government I have the honor to make the foregoing known to your excellency's Government renewing to you the assurances [etc.]

Y. BONILLAS

File No. 812.00/21756

The Secretary of State to the Mexican Ambassador (Bonillas)

No. 391

WASHINGTON, February 26, 1918.

EXCELLENCY: Referring to your excellency's notes Nos. A-1144 and A-1149, dated, respectively, the 22d and 23d ultimo, in which you state that certain disaffected Mexicans residing in Tucson and Phoenix, Arizona, are arming Yaqui Indians and organizing an expedition, for the purpose of invading the State of Sonora, Mexico, I have the honor to enclose herewith a copy of a letter from the United States Attorney for the District of Arizona to the Attorney General, in which the former reports what has been done by him to bring the parties complained of to justice.

In a letter from the Department of Justice, dated the 20th instant, the statement is made that the contents of your excellency's note No. A-1220, of the 2d instant,¹ would be promptly communicated to the representatives of that Department in Arizona.

Accept [etc.]

For the Secretary of State:

ALVEY A. ADEE

[Enclosure]

The United States Attorney for the District of Arizona (Flynn) to the Attorney General (Gregory)

PHOENIX, ARIZ., February 14, 1918.

SIR: I have yours of February 8, 1918 (90755-2538) transmitting copies of two notes from the Mexican Ambassador in which he complains that certain disaffected Mexicans at Tucson and Phoenix are arming Yaqui Indians and organizing an expedition for invasion of Sonora, Mexico.

A careful reading of the notes discloses that the alleged activities are confined to Tucson, Arizona, and Los Angeles, California, and I am reasonably sure that no such activities are being carried on here at Phoenix, as no report has reached me to that effect.

I am sending your letter and enclosures to Tucson with directions to the assistants there to give the matter prompt attention, and I have just called our Tucson office which reports that the Mexican Consul there has never called the attention of our office to the matters he reported to the Mexican Ambassador.

I note among the names of the alleged conspirators, Bartolo Miquerray and Miguel Santa Cruz. These two with seven others were indicted May 10, 1917, at Tucson for conspiring to violate the President's proclamation of October 19, 1915, to export arms and ammunition to Mexico. Miquerray and Santa Cruz and one Mariano Jaques were tried and convicted, and on June 7, 1917, Miquerray was sentenced to 90 days in the Pima County jail and fined \$300; Jaques was sentenced to 60 days in the Pima County jail and fined \$100; and Santa Cruz was sentenced to 6 months in the Pima County jail and fined \$500.

One Francisco Reyna, a Villista lieutenant, was indicted with the others, but as he was taken in Sonora, we had little hope of ever getting him. He was later reported to have entered Yuma, Arizona, whereupon I gave instructions to have a capias issued and sent to the deputy marshal at Yuma for his apprehension should he ever show up there.

Noting the name Cabecilla Reyna in the Consul's report, gives rise to the question of his identity with the Francisco Reyna whom we are seeking. I am asking the Tucson office to inquire of Consul Dominguez if this is the same man. The Consul certainly is familiar with our prosecution of Miquerray and the others, and if Reyna was in Tucson, a notification to our office to that effect would have promptly resulted in his arrest. The indictment against him

¹Not printed.

and the others is still pending. I have checked the names of the defendants on our docket with the names mentioned in the Consul's report, and with the above exception, the names are entirely different.

We had Camberos bound over to the Grand Jury several years ago and kept him under bond for over a year, but the evidence was insufficient to warrant an indictment.

I am instructing the Tucson office to make full report to you after it has made an investigation.

The Tucson office further reports that the nine Yaquis who were apprehended by the military, as set out in the Nogales Consul's report, were indicted last week at Tucson for attempting to export arms and ammunition to Mexico and that their trial will be had shortly.

I will be in Tucson next week and give the whole matter my personal attention.

Sincerely yours,

THOMAS A. FLYNN

File No. 812.00/21771

*The Acting Secretary of State to the Mexican Ambassador
(Bonillas)*

No. 403

WASHINGTON, March 8, 1918.

EXCELLENCY: Referring to the Department's note No. 380, of the 15th ultimo,¹ informing you that the Attorney General had sent a telegram to the representative of the Department of Justice in Tucson, directing him to give special attention to your complaint that certain disaffected Mexicans in Tucson and Phoenix, Arizona, were arming Yaqui Indians and organizing an expedition for the purpose of invading the State of Sonora, I have the honor to inform you that the Department is in receipt of a letter from the Attorney General, dated the 25th ultimo, in which he states that a telegram has been received from the representative, in which the latter states that the Yaqui matter had been brought to his attention by the Mexican Consul, and that he gave it respectful attention; but that a diligent investigation showed that it had not sufficient foundation to justify a report. The representative adds that the matter would receive his further special attention; but that he considered further developments improbable.

Accept [etc.]

FRANK L. POLK

File No. 812.0144/53

The Secretary of State to the Mexican Ambassador (Bonillas)

WASHINGTON, March 25, 1918.

MY DEAR MR. AMBASSADOR: I beg to acknowledge the receipt of your note No. A-1294, of February 11, 1918.

The communication bearing your signature is phrased in language which I can not but regard as discourteous and not befitting the friendly relations which it has always been the aim of this country to foster with Mexico.

I therefore return the note to you, thus affording you the opportunity to couch it in terms more consonant with diplomatic usage in the correspondence between friendly nations.

I am [etc.]

ROBERT LANSING

¹ Not printed.

File No. 812.00/21839

The Secretary of War (Baker) to the Secretary of State

WASHINGTON, March 30, 1918.

The Secretary of War presents his compliments to the honorable the Secretary of State, and desires to transmit, enclosed herewith, copy of telegram received from the Commanding General, Southern Department, relative to a pursuit of a band of raiding Mexicans by United States troops into Mexico. Attention is especially called to the concluding sentence of a despatch reported to have been sent by Colonel Langhorne, United States Army.

[Enclosure—Telegram]

The Commanding General of the Southern Department (Ruckman) to the Adjutant General (McCain)

FORT SAM HOUSTON, TEX. March 29, 1918.

6890. Following telegram from commanding officer Big Bend district repeated:

I wired you that I personally was at Neville's ranch. I sent Captain Anderson on trail of raiders with his Troop G and Captain Tate with Troop A. The Detachment of H troop was sent to Bosque Bonito. Anderson has just reported from Everett's ranch as follows:

Have just come out of Mexico. Hit hot trail of raiders and trailed them from Nevilles toward Bosque Bonito back of mountains. They turned toward Pilares. Estimated number of bandits 35. Ascertain that they crossed toward Pilares and camped at Roswells, called the Gap, left there about 4:40 a. m., crossed mountains and followed trail led to river. Just as it turned toward Pilares Mexicans opened fire; we chased them, starting fight at 11 a. m., after hiking 30 miles we chased them back into hills as far as horses lasted; they had fresh horses. Number of dead seen 10, number killed or wounded 20. Found Neville's saddle on a horse also Neville's horse; could not bring out saddle as there was no way of carrying it; horse was all in. Found young Neville's chaps on dead Mexican but did not stop to take them off; could not locate him afterwards. Found young Neville's brother's and Alverice Costilla's saddle; brought both out; had to kill one of Neville's horses as he had been shot. Cleaned out Pilares; there was a lot of ammunition and dynamite in houses. Casualties on our side: one man killed, Pvt. Theodore Kalbert, Troop G; one horse, Troop G, wounded in neck; one horse, Troop A, wounded in breast, not serious; one pack mule wounded in leg. Did not see Carranzistas but thought we saw dust clouds coming up river. Walked to Everett as horses covered about 75 miles. Left patrol 10 men at river.

Gen. José Murguía had sent me word that he would send troops to resist ours, the Trail, Langhorne.

Particular attention is invited to last sentence of above message.

RUCKMAN

File No. 812.0144/75

The Mexican Ambassador (Bonillas) to the Secretary of State

[Translation]

No. A-1580

WASHINGTON, April 3, 1918.

EXCELLENCY: I have the honor to inform your excellency that the Department of Relations of my Government advises me that under date of March 29 last, a group of American troops passed into Mexican territory at the Pilares ranch, which they set on fire.

By my Government's direction I protest to your excellency's Government against such acts, which constitute a violation of Mexican territory, and beg your excellency to be pleased to order the punishment of those who may be found to be responsible for the above-mentioned acts.

I avail [etc.]

Y. BONILLAS

File No. 812.0144/77

The Mexican Ambassador (Bonillas) to the Secretary of State
[Translation]

No. A-1620

WASHINGTON, April 11, 1918.

EXCELLENCY: I acknowledge the receipt of your excellency's kind note of March 25 relative to the representations made by the Mexican Government on the subject of the crossing of American troops into Mexican territory.

The Government of Mexico, in making the representations contained in my note of February 11 last, never had in mind or in the least intended to injure the susceptibilities of the American Government. My Government's sole purpose in sending the aforesaid note was to draw the State Department's attention to the facts which for their gravity and importance could not be allowed to pass unnoticed, and at the same time to give the American Government an opportunity to take appropriate measures to prevent a recurrence of those facts and so demonstrate its purpose to maintain the friendly relations that have existed between the two countries.

The Government of Mexico deplores the wrong interpretation assigned to that note by the Department of State, but at the same time feels assured that the American Government convinced of the spirit of justice which inspired the note will pay due attention to the claims of the Government of the United Mexican States which only afford an opportunity to the American Government further to testify its friendship to the Mexican Republic.

I have, by order of my Government, the honor to bring the foregoing to your excellency's knowledge and to renew to you the assurances [etc.]

Y. BONILLAS

File No. 812.00/21884

The Ambassador in Mexico (Fletcher) to the Secretary of State
[Telegram]

MEXICO, April 14, 1918, 1 p. m.

972. Minister for Foreign Affairs in an interview yesterday referred to recent border difficulties, especially those near Ojinaga [Chihuahua] which have involved the killing of a number of Mexican citizens and soldiers, and said that he believed these difficulties were fomented by enemies of the present Mexican Government in the United States, that President Carranza had directed him to inform me that the Mexican Government was not seeking a quarrel with the United States and was anxious to avoid all difficulties of this kind, and that strict orders had been given to the Mexican troops not to fire on persons on the American side, and he hoped similar orders might be given to our troops. He said that our consuls recently had published an order to the effect that all persons crossing the river at any other place than the bridges would be fired on, and that it was unsafe for any Mexican to approach the river bank on the Mexican side. He said that he did not mean this so much as a protest as an informal conversation designed to bring

about an improvement of border conditions and to avoid further bloodshed.

Please instruct me to say that our Government reciprocates President's desire and also that activities of enemies of Mexican Government in the United States will be sternly repressed.

FLETCHER

File No. 812.0144/77

The Secretary of State to the Mexican Ambassador (Bonillas)

No. 442

WASHINGTON, April 15, 1918.

EXCELLENCY: I have the honor to acknowledge the receipt of your excellency's note No. A-1620, of April 11, 1918, in which you refer to your note of February 11, 1918.

You state that the representations made in the latter note were intended to call this Government's attention to the crossing of American troops into Mexico and to the gravity of such acts, in order that this Government might take appropriate measures to prevent a recurrence of such incidents and thus demonstrate its purpose to maintain the friendly relations happily existing between the United States and Mexico.

You say that your Government regrets that the note in question was not received in this sense by the American Government, but that your Government feels assured that the Government of the United States, convinced of the spirit of justice prompting the representations of the Government of the United Mexican States, will not fail to give due consideration to such matters as may be brought to its attention by your excellency's Government.

In reply I have the honor to inform your excellency that I have taken due note of the contents of your communication under acknowledgment, and that I shall be pleased to give prompt and careful attention to such matters as your Government may find it necessary to address to this Government through your excellency's Embassy.

I take pleasure in adding that I have requested the proper branch of this Government to cause an investigation to be made of the incident referred to in the opening paragraph of your note of the 11th instant.

Accept [etc.]

ROBERT LANSING

File No. 812.0144/81

The Mexican Ambassador (Bonillas) to the Secretary of State

No. A-1667

WASHINGTON, April 16, 1918.

EXCELLENCY: I have the honor to inform your excellency that I have received the following telegram from the Secretary of Foreign Relations:

MEXICO CITY, April 14, 1918.

American forces have fired on Mexican soldiers at Guadalupe, Chihuahua, who are marching to Ojinaga. Casualties: one soldier, four women, and one child dead, and Major Porfirio García wounded. Our forces have abstained from returning the fire. American soldiers have taken measures to prevent

march of Mexican forces toward Ojinaga, firing into Mexican territory. Please communicate the preceding information to the Department of State, to the end that the proper orders be issued in order to avoid a possible conflict between the forces of both countries.

AGUILAR
Secretary of Foreign Relations

I have the honor to communicate the foregoing to your excellency, with the request that the matter will be brought to the attention of the corresponding military authorities, in order that necessary orders be issued to prevent a possible conflict between the American and Mexican troops.

I avail [etc.]

Y. BONILLAS

File No. 812.00/21884

The Secretary of State to the Secretary of War (Baker)

WASHINGTON, April 17, 1918.

SIR: I have the honor to acknowledge the receipt of your letter of April 12, 1918,¹ with which you enclose, for my attention, a copy of a telegram dated at Fort Sam Houston, Texas, April 11, 1918, from General Ruckman, stating that he has been advised by the commanding officer of the Big Bend district that heavy reinforcements of Mexican troops have arrived at different points along the Rio Grande.

In reply, I have the honor to enclose herewith a paraphrase of a telegram dated April 14, 1 p. m., from the American Ambassador at Mexico City, from which it appears that President Venustiano Carranza has caused strict orders to be issued to Mexican troops not to fire upon persons on the American side of the boundary. It appears, also, that President Carranza has expressed the hope that similar orders might be given to American troops along the Rio Grande.

Accordingly, I have the honor to suggest, for your consideration, the advisability of communicating the contents of the Ambassador's telegram to the Commanding General of the Southern Department, together with renewed instructions that no American troops shall fire upon any person on the Mexican side of the international boundary, unless such troops shall first have been fired upon from the Mexican side, and return of fire is made necessary as a measure of self-defense.

Further, in view of the numerous notes that have lately been received by this Government from the Mexican Embassy, protesting against the killing of Mexican citizens, on Mexican soil, by American soldiers, and against the invasion of Mexico by our soldiers, I am of the opinion that, with the arrival of Mexican reinforcements on the border, it might be well, at least for the present, not to permit American soldiers to pursue Mexican bandits into Mexico, but to discontinue such pursuit at the border line, when a prompt effort should be made to have the pursuit taken up by forces of the Mexican Government.

¹ Not printed.

I shall be pleased to learn what action is taken by you in this matter, in order that I may make an appropriate response to the Ambassador's telegram.

I have [etc.]

ROBERT LANSING

The Secretary of State to the Ambassador in Mexico (Fletcher)

[Telegram]

WASHINGTON, April 17, 1918, 8 p. m.

986. Your 972, March 14. You may say that this Government sincerely reciprocates President Carranza's desire to improve border conditions and that it is giving serious consideration to border situation, with a view to the issuance of renewed instructions to appropriate United States military authorities.

As soon as these instructions have been issued, you will be advised of their nature.

LANSING

File No. 812.00/21902

The Mexican Ambassador (Bonillas) to the Secretary of State

[Translation]

No. A-1791

WASHINGTON, April 19, 1918.

EXCELLENCY: I have the honor to inform your excellency that the Government of the Mexican Republic knows that various revolutionary and rebel groups are organizing within American territory to the apparent knowledge, at least, of the authorities, with the object of sending hostile expeditions against the Constitutional Government of Mexico.

For your excellency's information I will give you the facts upon which the Embassy has trustworthy reports.

Ex-Gen. Francisco Coss is in the city of Del Rio, State of Texas, recruiting men and, through Antonio Ramos, buying horses with the object of crossing into Mexican territory at the end of this month and starting a revolution against the Constitutional Government of Mexico and using therefor the men, horses, and arms he lately procured in the United States.

In order to establish the guilt of General Coss and other persons, the Mexican Government is ready to send over the documentary evidence, and would be glad if Gen. Francisco Coss were arrested for violation of the neutrality laws.

In the city of San Antonio, Texas, there have been held several meetings of conspirators and malcontents presided over by Licenciate Jesús Acuña.

Also in American territory, opposite Reynosa, State of Tamaulipas, there is a band of 300 men with arms, pretending to be workmen or laborers. The Mexican Government would be thankful if your excellency were pleased to order an investigation and the punishment of those who may be found guilty of organizing the said expedition.

The reactionary element residing in the city of El Paso, in connivance with Villa refugees, has been engaged in an active con-

spiracy, and trying to organize an armed movement against Ciudad Juárez, with a man named Romero at the head and waiting for the arrival of the former Federal generals, Felipe Angeles, Juan José Rocha and Rubio Navarrete.

In the city of Tucson there is a nucleus of conspirators inimical to the Mexican Government who are conducting an active propaganda aimed at recruiting men with whom to start an armed movement against Mexico, and it consists of Joaquín Carrillo, Alfonso Loyola, Santiago Camberos and Carlos Randall, among others. They are displaying their activities in the mining camps of Miami, Rey, and Silverbell, where they have 800 armed men at their disposal.

As your excellency will see, the machinations of the rebels above referred to are openly hostile to the Government of Mexico; they avail themselves of the asylum they enjoy in American territory and violate the principles of neutrality. Neither will it escape your excellency that these meetings of conspirators are largely responsible for the state of excitement that prevails along the border, as they are endeavoring to create difficulties between the Governments of the United States of America and of Mexico, supply with arms small parties of bandits whom they send forth to commit depredations on the border towns on both sides of the boundary line.

Availing myself of your excellency's cordial offer to take these representations into earnest consideration, I have hereby the honor to beg you to be pleased to take as energetic action as the case deserves against those rebels who endanger the good relations of the two countries and to issue appropriate orders to the authorities for their arrest and punishment for their violation of neutrality laws.

I avail [etc.]

Y. BONILLAS

File No. 812.00/21924

The Mexican Ambassador (Bonillas) to the Secretary of State

[Translation]

No. A-1799

WASHINGTON, April 20, 1918.

EXCELLENCY: I have the honor to inform your excellency that the Mexican Government has knowledge of the activities of various reactionary and Villista elements who are conspiring at El Paso, Texas, against the Constitutional Government of Mexico and are attempting to send an armed expedition to Mexican territory, thus fomenting disturbances whose effects have been lately felt on both sides of the border.

I enclose two clippings of March 31 last, from the newspaper *La Republica*¹ which is published at El Paso, Texas, in which is seen the assertion that the Washington Government has officially declared that it will have absolutely nothing to do with President Carranza and his administration, and by way of coercion and reprisals will take no notice of other rebel movements against the Executive of Mexico.

In bringing the foregoing to your excellency's knowledge I have the honor to say to you that the Mexican Government will highly

¹ Not printed.

appreciate an explicit declaration of the American Government on the subject, and also an active prosecution in the United States of those rebels who are the enemies of both countries.

I avail [etc.]

Y. BONILLAS

File No. 812.0144/90

The Mexican Ambassador (Bonillas) to the Secretary of State
[Translation]

No. A-1827

WASHINGTON, April 26, 1918.

EXCELLENCY: I have had the honor to receive your excellency's kind note dated April 17,¹ in which you are pleased to inform me that the attention of the proper Department of your Government has been called to the firing on Mexican soldiers who were at Guadalupe, State of Chihuahua, by American soldiers during which a soldier, four women, and a boy were killed and Maj. Porfirio García was wounded, to the end that instructions to avoid a conflict be sent at the earliest possible date.

To complement the investigations of the case and to prove that the American forces started the firing without any cause, I enclose to your excellency a copy of the reports made by the citizen Consul General at El Paso,¹ who personally investigated the case and applied to Col. C. T. Langhorne, commander of the military district of Big Bend, whom he asked to punish the guilty.

I avail [etc.]

Y. BONILLAS

File No. 812.00/21933

The Secretary of State to the Ambassador in Mexico (Fletcher)
[Telegram]

WASHINGTON, April 27, 1918, 4 p. m.

1005. Secretary of War has called my attention to fact that Mexicans are accumulating a large force opposite Big Bend district and that General Ruckman has suggested that with this force the Mexicans now ought to be able to prevent raids in that district from the Mexican side.

You are instructed to point out to the Mexican Government the perils caused by these raids to the good relations now existing between the United States and Mexico, and to suggest that the presence of this large force of Mexican soldiers on the border now places it in the hands of the Mexican Government to take effective steps to prevent a further recurrence of these raids.

LANSING

File No. 812.0144/85

The Secretary of State to the Mexican Ambassador (Bonillas)

WASHINGTON, May 1, 1918.

MY DEAR MR. AMBASSADOR: In further reply to your note No. B-959, of February 26, 1918,¹ concerning an encounter between

¹ Not printed.

smugglers and United States troops guarding the international boundary in the neighborhood of El Paso, Texas, I beg to inform you that the appropriate United States military authorities along the border have concluded an investigation of this matter.

The investigation shows that on the night of January 25, 1918, certain smugglers tried to cross the Rio Grande at an unauthorized place, near El Paso, Texas, carrying with them a number of sacks of sugar. While still on American soil, the smugglers were ordered to halt by the American bridge guard, and, upon their refusal to do so, they were fired upon by the guard's patrol. However, when the patrol fired at the smugglers, who were then at least 100 yards from the river, on American soil, the former was immediately fired upon by a considerable number of men on the Mexican side of the river.

The investigation further discloses that no machine guns were used, as would appear from your note, by the American patrol; that the firing by the patrol was not in the direction of the City of Juárez; and that, consequently, the firing did not in any way endanger the lives of the inhabitants of that place or make necessary any firing from the Mexican side.

I may add that the American military authorities have orders to prevent persons from crossing into Mexico at unauthorized places, and that if such persons refuse to halt when ordered, as was the case with these smugglers, they invite the obvious consequences incident to their acts.

In conclusion, I regret to have to say that, if, on this particular occasion, any other persons besides the smugglers were injured, it was the result of the unjustifiable action of those who fired upon the American patrol from the Mexican side of the river.

I am [etc.]

ROBERT LANSING

File No. 811.0144/95

The Secretary of State to the Ambassador in Mexico (Fletcher)

[Telegram]

WASHINGTON, May 8, 1918, 7 p. m.

1047. Commanding Officer, Southern Department, telegraphed May 1 as follows:

Commanding officer Big Bend district reports that one of his patrols of 10 men was attacked this morning at 4 o'clock by a force of between 25 and 50 Mexicans who were on the American side of the Rio Grande near Neville ranch. No casualties.

Bring substance foregoing earnestly to attention Mexican Government.

LANSING

File No. 812.00/21924

The Secretary of State to the Mexican Ambassador (Bonillas)

No. 472

WASHINGTON, May 9, 1918.

EXCELLENCY: I have the honor to acknowledge the receipt of your excellency's note No. A-1799, of April 20, 1918, in further relation to

the reported activities, on American soil, of Villistas and other marauders, whose object is to cross the international boundary and create disturbances in Mexico.

You transmit two clippings from *La Republica*, a newspaper published at El Paso; and you invite my attention to marked portions of these clippings asserting that "it has been announced officially that Washington will entirely disregard Carranza and his administration" and, further, that the Government of the United States "as a measure of coercion and as a reprisal, will refrain from taking notice of a new rebellious movement against the Mexican Executive." You ask me to furnish you with an explicit declaration in the matter.

In reply I have the honor to inform your excellency that no such announcement has been made by this Government. Your excellency will doubtless agree with me that neither Government should give serious thought to the many rumors that are constantly being circulated, in newspapers and otherwise, by irresponsible persons along the border whose object appears to be to stir up trouble between the United States and Mexico; and it would, therefore, seem unnecessary for me to make further denial of the statements appearing in the clippings.

I have sent a translation of your note to the appropriate branch of this Government, for such action as may be deemed proper under the law.

Accept [etc.]

ROBERT LANSING

File No. 812.0144/93

The Mexican Ambassador (Bonillas) to the Secretary of State

[Translation]

No. A-1890

WASHINGTON, May 9, 1918.

EXCELLENCY: I have further reference to your excellency's kind note dated 8th of April¹ in which your excellency is pleased to inform me that you have sent to the proper Department of your Government the representations of this Embassy in connection with the invasion by a group of American soldiers of the Rancho de Pilares, which was set on fire.

Further data having come to me I have the honor to forward them to your excellency.

On the 28th of March last, at 10 o'clock in the morning, the inhabitants of the Rancho de Pilares, State of Chihuahua, saw the coming of a force of Cavalry of the American Army consisting of about 200 men riding in the direction of the T. O. Rancho; in view of the attitude of the force, the inhabitants of Pilares prepared themselves for defense. They were 19 in number; 2 of them were killed in the fight: Cornelio Quintela and Higinio Alvarado. Manuel Michaca, an old man, 80 years old, who on account of his age could neither fight nor leave the scene, also lost his life.

In view of the numerical superiority of the Americans, the civilians withdrew to the highlands. A Mexican reinforcement of 150 came up and exchanged fire with the American force which withdrew after completely destroying the Rancho de Pilares by fire without leaving a single article that could be used or a single house of the inhabitants

¹ Not printed.

standing. I enclose an inventory of the articles lost by each one of the inhabitants as a result of the fire.¹

My Government protests against these facts which it considers to be a violation of the sovereignty of its territory, and as more than a month has passed since then and no decision has been reached in the matter, I find myself constrained again to beg your excellency that the guilty be punished, as there is no law that would warrant such an invasion of Mexican territory and such destruction.

I also beg your excellency to be pleased to order that the sufferers from the fire be paid an indemnity for the losses they sustained.

I avail [etc.]

Y. BONILLAS

File No. 812.00/21981

The Secretary of State to the Ambassador in Mexico (Fletcher)

No. 544

WASHINGTON, May 14, 1918.

SIR: Referring to the Department's telegram of May 14, 1918,² stating that the Secretary of War has issued instructions to the effect that—

No American troops shall fire upon any person on the Mexican side of the international boundary, unless such troops shall first have been fired upon from the Mexican side and a return of fire is made necessary as a measure of self-defense,

the Department encloses herewith, for your confidential information, a copy of Secretary Baker's letter dated May 11, 1918.¹ Mr. Baker transmits with his letter a copy of a telegram dated April 27, 1918, from General Ruckman, from which it appears that Mexican troops in the Big Bend district are not acting in conformity with the instructions reported in your telegram of April 14 having been issued to the Mexican troops stationed on the frontier.

You will therefore bring the substance of General Ruckman's telegram to the attention of the Mexican Government and request it to direct the Mexican military authorities along the border to make every possible effort to prevent firing across the international boundary by Mexican soldiers. It is also suggested that you ask the Mexican Government to take vigorous steps to put a stop to raids upon American soil, pointing out to that Government that, according to General Ruckman's information, among those taking part in these raids appear to be regular Mexican soldiers.

I am [etc.]

ROBERT LANSING

The Secretary of State to the Ambassador in Mexico (Fletcher)

[Telegram]

WASHINGTON, May 15, 1918, 3 p. m.

1068. Your despatch 905, April 10,¹ and telegram 972, April 14. Secretary of War informs me he has issued following instructions to the United States military authorities on border:

¹ Not printed.

² Telegram not forwarded until May 15. See following document.

No American troops shall fire upon any person on the Mexican side of the international boundary, unless such troops shall first have been fired upon from the Mexican side and a return of fire is made necessary as a measure of self-defense.

You may inform Mexican Government of foregoing. Mail instruction follows.

Concerning last paragraph your telegram, you may say this Government will be pleased to receive specific data regarding activities of offenders. Upon receipt such data, the appropriate branch of this Government will be requested to take such action as may be proper under the law.

LANSING

File No. 812.0144/90

The Secretary of State to the Mexican Ambassador (Bonillas)

No. 483

WASHINGTON, May 17, 1918.

EXCELLENCY: I have the honor to acknowledge the receipt of your excellency's note A-1827, of April 26, 1918, with which you enclose correspondence from the Mexican Consul General at El Paso, Texas, in further relation to a report that American troops, in April last, fired upon Mexican soldiers in the vicinity of Guadalupe, State of Chihuahua, Mexico, and that several persons on the Mexican side of the Rio Grande lost their lives as the result of such firing.

In reply I have the honor to inform your excellency that a translation of your note and a translation of its enclosure have been forwarded to the appropriate branch of this Government, for its consideration in connection with previous correspondence sent to it on the subject.

In this connection I have the honor to say to your excellency that the investigation of this occurrence thus far made by this Government, and based on your note No. A-1667, of the 16th ultimo, shows that the firing was started by Mexican soldiers; that the American patrol returned the fire; and that the casualties suffered on the Mexican side of the river were the result of the unjustifiable action of the Mexican soldiers in firing upon the American patrol. This Government's investigation further discloses that, prior to the incident under discussion, 10 Mexican soldiers invaded the territory of the United States, shot a Mexican caretaker of Harris Bros.' cattle ranch, stole a watering trough and some peanut cake belonging to this firm, and drove their horses through the firm's wheat field.

Accept [etc.]

ROBERT LANSING

File No. 812.0144/86

The Secretary of State to the Mexican Ambassador (Bonillas)

No. 485

WASHINGTON, May 21, 1918.

EXCELLENCY: In further reply to your excellency's note No. A-1620, of April 11, 1918,¹ concerning the crossing, in December last, of American troops into Mexico, I have the honor to inform you

¹ Ante, p. 557.

that the appropriate branch of this Government has investigated this matter and has reported, in regard thereto, that, on the night of December 27, 1917, a number of Mexican raiders crossed the Rio Grande from Mexico at a point near the Indio ranch, which is situated about 25 miles from Eagle Pass, Texas. These raiders stole approximately 100 goats from the said ranch and then returned to Mexico, their crossing and recrossing being accomplished under the protection of from 30 to 50 armed men stationed on the Mexican side of the river.

A detachment of American Cavalry pursued the raiders, with the view of effecting their capture or destruction. The trail crossed and recrossed the river eight miles below the Indio ranch house, at a place not generally known to be fordable, opposite the Mexican village of San José. Upon close investigation it was ascertained that the goats had been driven off by about six mounted men under the protection of the armed men previously mentioned.

It is further reported that when the detachment which engaged in the pursuit had reached the international boundary, it encountered no Mexican troops by whom the pursuit might have been taken up on Mexican soil. The American soldiers followed the trail as far as San José, Mexico, which is situated about one and one-half miles from the river. Unmistakable evidence of the activities of the raiders were found at the village, including a cow belonging to the Indio ranch.

The only persons found at San José by the Americans during their stay at that place were two men and a woman. Shortly after the detachment entered the village, the American troops were fired upon from three sides, the fire continuing for about 20 minutes, and, when the firing ceased, the body of a Mexican was found near a hut. He had evidently been killed during the action; but it is not known whether he was killed by the fire of the Americans or by that of those attacking them. The three residents mentioned were not molested by the American troops, who almost immediately returned to the United States, recrossing the river before dusk on the same day, namely, on December 29.

Briefly stated, the facts are as follows: (1) These raiders were co-operating with from 30 to 50 armed men on the Mexican side of the boundary, and, as no Mexican troops were anywhere to be found to pursue the raiders, a small detachment of American troops pursued them, from American soil, for a distance of one and one-half miles into Mexico, as a measure of protection for life and property on American territory; (2) the American troops captured no one, made no prisoners, did not molest the residents of San José, and did not fire a single shot until they were fired upon by a number of men, from ambush, while an American officer was questioning the woman mentioned as having been found at San José; (3) the troops returned to United States territory on the afternoon of the same day.

In conclusion, I have the honor to say to your excellency that the only purpose of the American troops in crossing the border was to remove the raiders from the border and to keep them away from American soil. In view of the amicable relations existing between the two Governments and their desire not only to continue but to strengthen these friendly relations, I need not assure you that the

action of the American troops was not taken because of any hostile feeling toward the Mexican Government.

I have been advised that the Mexican forces along the international boundary have recently been augmented by your Government, and I sincerely hope that this action will result in improved conditions along the border. You will readily appreciate that a cessation of these raids will be a source of great satisfaction to this Government and obviate the necessity of pursuits by American troops. I feel confident that your excellency's Government will not fail to recognize that a menace to the well-being of both countries is centered in the lawless bands which have, during the past few years, committed numerous outrages on the territory of the United States, and which, on account of the insufficient border patrol heretofore maintained by Mexico, were able to take refuge on Mexican soil immediately after their objects had been accomplished; and I further hope that your Government may see its way clear to take steps, in cooperation with this Government, to put a stop to the activities of the lawless bands in question.

Accept [etc.]

ROBERT LANSING

File No. 812.00/21995

The Secretary of State to the Mexican Ambassador (Bonillas)

WASHINGTON, May 21, 1918.

MY DEAR MR. AMBASSADOR: Referring to your note No. A-1791, of April 19, 1918, relative to the activities of Gen. Francisco Coss, and others, in the State of Texas, I beg to inform you that the appropriate branch of this Government has reported that the proper United States authorities in Texas are keeping in close touch with the movements of these men, and that, if any overt act should be committed by them, suitable action will be taken.

I am [etc.]

ROBERT LANSING

File No. 811.0144/98

The Ambassador in Mexico (Fletcher) to the Secretary of State

No. 1063

MEXICO, May 28, 1918.

SIR: With reference to the Department's telegram No. 1047 of May 8, 7 p. m., relative to an attack made on May 1 by armed Mexicans on an American patrol in the Big Bend district, I have the honor to report that in reply to the Embassy's representations, the Mexican Foreign Office states in a note dated the 17th instant, that the group of armed men referred to were outlaws, and that the Mexican Government has issued appropriate orders to pursue them actively.

I have [etc.]

HENRY P. FLETCHER

File No. 811.0144/86

The Secretary of State to the Ambassador in Mexico (Fletcher)

No. 589

WASHINGTON, June 15, 1918.

SIR: I enclose herewith, for your information, a copy of a note which the Department has sent to the Mexican Ambassador at this

Capital, under date of May 21, 1918, in response to one of several protests which he has made during the past few months against the crossing of American troops in Mexico.

In this connection, I beg to say that I am in receipt of a communication from the War Department embodying reports by United States military authorities along the Mexican border, concerning a number of violations of American territory by Mexicans, including soldiers of the Mexican Army. I give below the substance of the War Department's communication:

(1) On November 28, 1917, a band of Mexican raiders drove into Mexican territory 60 head of cattle belonging to American ranches in the neighborhood of Indio, Texas. The cattle were forced over the border at Indio Crossing, about 4 miles from Indio. The following day an additional 50 head of cattle were driven off, by Mexican invaders, from a ranch 14 miles from Windmill, Texas.

(2) At midnight, December 6, 1917, about 15 Mexican raiders robbed two stores at Ramireno, Texas, and carried off the entire stock of both stores and returned therewith to Mexican soil.

(3) On the morning of December 25, 1917, a number of Mexican raiders attacked Brite's ranch, 35 miles southwest of Marfa, Texas, and killed a United States mail driver and two of his passengers, both Mexican citizens. The raiders looted Mr. Brite's store and stole several of his horses which they used to remove the spoils. Mr. Brite appealed to the United States military authorities for aid and upon the approach of American troops the raiders abandoned the stolen provisions and horses, but not until several of the raiders had been killed. One of the dead men wore the uniform of a captain of the Mexican Army.

(4) On December 29, 1917, Gordon A. Parmales and Charles Greensdale, American citizens, while carrying a pay roll of the Borderland Sugar Co., at Mercedes, Texas, were held up by Mexican raiders. Mr. Greensdale managed to escape with the money, but the raiders killed his companion. A detachment of the 16th United States Cavalry captured four men suspected of the crime, two of whom were wounded. These men asserted that there had been a fifth man in the party, but that he had either escaped into Mexico or lost his life in attempting to cross the river.

(5) On March 1, 1918, a band of about 30 Mexican raiders crossed the river opposite Reid's ranch and killed three cows on the said ranch. Thereafter the outlaws moved up the river on the American side. When they reached the vicinity of Sierra Alta, Texas, a detachment of American troops halted them and asked their leader to settle for the value of the cattle. After a brief parley, the Mexicans attempted to escape and, when called upon to halt, they answered with rifle fire. The American troops returned the fire, the raiders losing 12 men, while those remaining scattered and sought cover in the hills.

(6) On March 4, 1918, a band of Mexican raiders attacked the Herring ranch, at Progreso, Texas, and stole two cows, which they drove across the river. The raiders captured a Mexican workman of the ranch and forced him to accompany them. The

workman escaped, however, and he subsequently informed the United States military authorities that the raiders were Mexican soldiers. The crossing and recrossing of the river were effected about a half a mile east of the Saenz ford.

(7) On March 25, 1918, a band of about 50 Mexican raiders surrounded and attacked Neville's ranch, otherwise known as Prude's ranch, killed a Mexican woman and wounded one of the Mexican servants. Mr. Neville's son was killed by the raiders, who fired several shots into his body after he had been wounded. American soldiers pursued the raiders into Mexico and killed or wounded several of them. Following the raid on the ranch, hand grenades and dynamite were found on the premises, from which it would appear that they intended to blow up the buildings on the ranch.

(8) On April 3, 1918, American forces encountered a band of Mexican raiders at Santa Helena, Texas. In the action that followed, an American citizen named Will Stillwell and a Mexican named Pablo Dominguez were killed.

(9) On April 21, 1918, a group of Mexicans raided White's ranch, which is situated directly south of Sierra Blanca and not far from Bosque Bonito, Texas, stealing six horses and carrying all the provisions they could find to the Mexican side of the river. This raid was committed by a force of Mexican soldiers under the command of Colonel Ruiz. On April 25 a detachment of the 8th United States Cavalry recovered Mr. White's chestnut stallion, equipped with saddle and equipment of a Mexican officer, consisting of an officer's sash, officer's saddle equipment, officer's coat, and officer's sweater.

Colonel Ruiz has given a written order in favor of Colonel Langhorne, United States Army, for \$2,225, to cover the losses resulting from the raid last mentioned. The order is dated April 24, addressed to Mr. Andreas Garcia, Inspector General of Mexican Consulates at El Paso, and, translated, reads as follows:

BOSQUE BONITO, TEXAS, April 24, 1918.

ANDREAS GARCIA, *Inspector General of Consulates, Mexico,
EL PASO, TEXAS.*

Pay to the order of Colonel Langhorne, commanding officer Big Bend district, the sum of two thousand two hundred and twenty-five dollars: for provisions taken from White's ranch, fifty dollars; four horses and one mule taken from White's ranch, three hundred dollars; five cows killed on the American side of the line between White's Ranch and Hot Springs, five hundred and seventy-five dollars; twenty-five cows run over from this side to Mexico, fifteen hundred dollars, total two thousand two hundred and twenty-five dollars.

The above property was taken or destroyed by soldiers of the expeditionary column under my command. Upon return to the proper United States authorities of any or all of the above property, the money will be refunded at the rate of value it is listed above.

MARTINEZ RUIZ
The Colonel Commanding the Zone

Unless you see objection to such a course, you will bring the foregoing seriously to the attention of the Mexican Minister for Foreign Affairs in such manner as in your judgment appears most suitable, pointing out to him that the violations of American territory complained of as having been committed by Mexican soldiers were, ap-

parently, in no instance the result of any circumstances making it imperatively necessary for them to invade American soil. You may add that, on the contrary, the evidence in the possession of this Government tends to show that the violations were committed for the purpose of looting unprotected American properties.

You will promptly inform the Department of your action. If you should deem it inexpedient to make formal or informal representations at this time, you will advise the Department of your reasons for not presenting the matter to the Minister for Foreign Affairs.

I am [etc.]

ROBERT LANSING

File No. 812.0144/98

The Secretary of State to the Mexican Ambassador (Bonillas)

No. 519

WASHINGTON, July 10, 1918.

EXCELLENCY: Referring to your excellency's note No. A-1890, of May 9 last, and to previous correspondence respecting the burning of Pilares ranch, in the State of Chihuahua, Mexico, by American troops, on March 29, 1918, I have the honor to inform you that the matter is receiving the Department's serious consideration, and that I shall advise your excellency, as soon as possible, of its decision in the matter.

Accept [etc.]

ROBERT LANSING

The Secretary of State to the Secretary of War (Baker)

WASHINGTON, July 10, 1918.

SIR: I have the honor to acknowledge the receipt of your letter of the 5th ultimo, transmitting a copy of the report of the investigation of the burning of the Pilares ranch, Mexico, by American soldiers, on March 29, 1918.¹

So many complaints have been made to this Department since the first of January last, by the Mexican Ambassador at this Capital, of the invasion of Mexican territory by American soldiers, and of their firing across the border, resulting in some cases in the killing or wounding of Mexican citizens, that the Department is embarrassed thereby, and finds it difficult to answer the Mexican complaints. The case of the burning of the Pilares ranch is especially embarrassing.

With the view, therefore, that our soldiers on the border may give as little excuse as possible for such complaints, and in order that our conduct towards Mexico may be in harmony with the sentiments expressed by the President ever since the beginning of his incumbency of office, and reiterated on June 7, 1918, in his address to the Mexican editors,² I have the honor to suggest that the orders given to the officers in command of the forces along the Mexican border be so modified as to prevent American soldiers from entering Mexico or firing across the border into Mexico, without specific orders in each case from the War Department.

I have [etc.]

ROBERT LANSING

¹ Not printed.

² Post, p. 577.

File No. 812.0144/111

The Secretary of War (Baker) to the Secretary of State

WASHINGTON, July 15, 1918.

DEAR MR. SECRETARY: I have your letter of July 10, in which you point out that many complaints have been made to the State Department by the Mexican Ambassador concerning the invasion of Mexican territory by American soldiers and their firing across the border.

I agree with you wholly as to the necessity of our having no avoidable friction with the Mexicans who live along the border, but if Mexicans cross our border and commit raids, I can not agree that they should not be pursued by our patrols even if they flee across the Mexican border. With regard to the question of preventing soldiers firing across the border into Mexico without specific orders in each case from the War Department, it would be most undesirable from a military standpoint to instruct our men that when they are being shot at themselves from the Mexican border they were not to return the fire, but to ask the War Department for permission to do so.

Very truly yours,

NEWTON D. BAKER

File No. 812.0144/119

The Mexican Ambassador (Bonillas) to the Secretary of State

[Translation]

No. A-2833

WASHINGTON, September 10, 1918.

EXCELLENCY: I have the honor to inform your excellency that the chief of the garrison of Ciudad Juárez, State of Chihuahua, reports to my Government that on the 11th of August a party of seven American soldiers with arms crossed the boundary line and entered the town of El Mulato, where they were challenged by the revenue officers and inhabitants of the place, and on hearing the challenge, they replied by firing their arms and beginning an exchange of shots which ended in an American being killed and a revenue officer being wounded.

By direction of my Government I protest against this violation of Mexican territory committed by soldiers of the United States of America, and ask that those who may be found responsible for the said violation be punished.

I avail [etc.]

Y. BONILLAS

File No. 811.0144/106

The Ambassador in Mexico (Fletcher) to the Secretary of State

No. 1572

MEXICO, October 31, 1918.

SIR: I have the honor to acknowledge the receipt of the Department's instruction No. 589 of June 15 last, enclosing copy of a note which the Department sent to the Mexican Ambassador at Washington under date of May 21, in response to one of several protests against the crossing of American troops into Mexico, and trans-

mitting a list of violations of United States territory by Mexicans, compiled from reports of the United States War Department. Receipt is also acknowledged of the Department's instruction No. 701 of September 20, 1918,¹ in regard to the same subject.

The Department instructed me, unless I saw objection to such a course, to bring the subject matter of this instruction seriously to the attention of the Mexican Minister for Foreign Affairs, and I was also instructed to advise the Department of my reasons in case the matter should not be presented.

In reply, I have the honor to report that at the time this instruction was received, the Minister of Foreign Affairs, General Aguilar, was ill, and in the hope of his early return to the Foreign Office, I delayed presenting the matter, as I felt it more than useless to bring it to the attention of the Subsecretary.

General Aguilar's return to duty was delayed, and meanwhile border conditions seemed to have improved so that I think it would serve no useful purpose to bring these incidents to the attention of the Mexican Government, unless as a matter of record. Should other incidents of a similar nature recur, I propose, in calling attention of the Foreign Office thereto, to refer to incidents mentioned in the Department's instruction.

I trust this course will meet with the Department's approval.

I have [etc.]

HENRY P. FLETCHER

File No. 812.0144/127

The Secretary of State to the Mexican Ambassador (Bonillas)

No. 675

WASHINGTON, November 2, 1918.

EXCELLENCY: In further reply to your excellency's note No. A-2833, of September 10, 1918, concerning a report that on the 11th of August a party of seven American soldiers crossed the boundary line and entered the town of El Mulato, I have the honor to inform your excellency that the appropriate branch of this Government has investigated this matter and has reported in regard thereto that on the night of August 11-12, 1918, six American soldiers from the camp at Polvo, Texas, crossed into the Mexican town of El Mulato, and that, while returning to American soil, they met a Mexican patrol, whereupon an exchange of shots took place, which resulted in the killing of Private Nelson of the American Army. The authorities who conducted the investigation make no mention of the alleged wounding of a Mexican revenue officer, as set forth in your note, nor do they state who began the firing.

Inasmuch as the action of these American soldiers in crossing into Mexican territory was without authority and in direct violation of orders, they have been tried by court-martial, the trials resulting in their being dishonorably discharged from the Army and confined at disciplinary barracks, two for one year, two for three years, and one for five years.

Accept [etc.]

ROBERT LANSING

¹ Not printed.

File No. 812.0144/130

The Mexican Ambassador (Bonillas) to the Secretary of State

[Translation]

No. A-3353

WASHINGTON, November 8, 1918.

EXCELLENCY: I have the honor to inform your excellency that the lower court of Ojinaga, State of Chihuahua, Mexican Republic, has conducted proceedings from which it appears that a group of American soldiers killed one Guadalupe Machuca on Mexican territory.

Witnesses thereto were Messrs. Manuel Prieto and Salomé Machuca, who say that they were in the house of José Machuca, about 100 meters distant from the boundary line, and there saw the body of Guadalupe Machuca lying face up and showing two gunshot wounds, one in the thigh and another over the lungs, the bullet coming out over the left teat.

That four Americans fired on the said house, causing the death of Guadalupe Machuca.

The incident took place at the point called Barrancos Guadaloupe on the 21st of October 1918.

I shall be very thankful to your excellency if you would kindly direct an investigation of the matter with a view to the due punishment of the guilty, of both the violation of Mexican territory and the death of Machuca.

I avail [etc.]

Y. BONILLAS

File No. 811.0144/104

The Secretary of State to the Ambassador in Mexico (Fletcher)

No. 771

WASHINGTON, November 14, 1918.

SIR: The Department quotes below a letter dated November 5, 1918, from the War Department, reading as follows:

The Secretary of War presents his compliments to the Honorable, the Secretary of State, and has the honor to convey the information that a report has been received that on October 21, 1918, Carranzista troops crossed the international boundary line near Indio in the Big Bend district, Texas, and upon the approach of a United States patrol, retired to the Mexican side of the border and opened fire on the patrol; that upon the same day near Ruidosa in the same district, Carranzista troops fired from the Mexican side of the border upon a United States patrol; that in neither case was there any cause for the Carranzista troops firing upon the patrols.

This information is conveyed to the Honorable the Secretary of State for such action as may be deemed necessary.

You are instructed to bring the occurrences mentioned in the War Department's letter to the attention of the Mexican Government, and to request that steps be taken to prevent firing by Mexican forces upon American soldiers stationed in the Big Bend district, and that orders be issued to the appropriate Mexican military authorities to put a stop to invasions of American territory by Mexican troops.

I am [etc.]

ROBERT LANSING

File No. 811.0144/105

*The Acting Secretary of State to the Ambassador in Mexico
(Fletcher)*

No. 782

WASHINGTON, November 22, 1918.

SIR: The Department quotes below a letter dated November 5, 1918, from the War Department, reading as follows:

The Secretary of War presents his compliments to the Honorable the Secretary of State and has the honor to convey information concerning the entering into the United States and the stealing and carrying away of property of United States citizens by armed Mexicans in the Big Bend district, Texas, between Ojinaga and Pilares.

Information has been received that small bands called *sociales* have been organized by Carranzistas for the purpose of regularly crossing the border and stealing horses and cattle, which bands are known to and recognized by the military officials of the Mexican Government in this district. It is believed that some of the raids have been led by officers holding commissions in the Carranzista forces, and it is known that some of the stolen horses have been turned over to and used by Mexican officers. The Mexican officials in this district seem either unwilling or unable to check these raids which are growing more frequent and more daring in their execution.

It is earnestly recommended that this matter be made the subject of formal complaint to the Mexican Government with a view of not only improving the conditions set forth, but also of securing the removal and punishment of the Mexican officials responsible for permitting the continuance of the depredations described.

You are instructed to lay this matter before the Mexican Government and earnestly to request it to take prompt action, with a view to improving the lawless conditions set forth in the War Department's letter, adding that your Government does not doubt that such Mexican officials in the districts of Ojinaga and Pilares as may be responsible for raids upon American property in the Big Bend district will be properly dealt with by the Mexican Government.

I am [etc.]

FRANK L. POLK

File No. 811.0144/106

*The Acting Secretary of State to the Ambassador in Mexico
(Fletcher)*

No. 789

WASHINGTON, November 26, 1918.

SIR: The Department acknowledges the receipt of your despatch No. 1572, of October 31, 1918, in which you refer to the Department's instruction No. 589, of June 15, 1918, regarding a number of violations of American territory by Mexicans, including soldiers of the Mexican Army. You say that, owing to the illness of the Mexican Minister for Foreign Affairs, you have delayed presenting the subject matter of the instruction, as you deemed it useless to take up the matter with the Subsecretary; and you add that the incidents mentioned in the instruction of June 15, will be presented if some future occasion should arise for you to bring similar incidents to the attention of the Mexican Government.

The course outlined in your despatch meets with the approval of the Department.

I am [etc.]

FRANK L. POLK

File No. 811.0144/109

The Ambassador in Mexico (Fletcher) to the Secretary of State

No. 1678

MEXICO, December 19, 1918.

SIR: Referring to the Department's instruction No. 782 dated November 22 last, regarding the stealing and carrying away of property of United States citizens by armed Mexicans in the Big Bend district, Texas, between Ojinaga and Pilares, I have the honor to transmit herewith copy and translation of a note received by the Embassy from the Mexican Foreign Office, under date of the 14th instant, which states that the matter has been brought to the attention of the appropriate authorities.

I have [etc.]

HENRY P. FLETCHER

[Enclosure—Translation]

The Mexican Acting Secretary of State for Foreign Affairs (Pérez) to the American Ambassador (Fletcher)

No. 4188

MEXICO, December 14, 1918.

MR. AMBASSADOR: I have the honor to acknowledge receipt of your excellency's note No. 780, dated the 7th instant, in which, acting under instructions from your excellency's Government your excellency informs me that in the districts of Ojinaga and Pilares there have been organized bands of outlaws who frequently cross the border to commit depredations on the properties of the American citizens in Big Bend, Texas.

In reply I have the honor to inform your excellency that in compliance with your excellency's request, I have addressed the proper authorities requesting that they conduct a rigid investigation regarding the acts to which your excellency refers and that they take energetic and efficient measures to avoid incursion into American territory.

I avail [etc.]

E. GARZA PÉREZ

File No. 812.0144/133

The Acting Secretary of State to the Mexican Chargé (Rojo)

WASHINGTON, December 30, 1918.

SIR: In further reply to the Mexican Ambassador's note No. A-3353, of November 8, 1918, concerning a complaint that, on October 21, 1918, a group of American soldiers stationed near the international boundary opposite Barrancos de Guadalupe, Mexico, fired across the border and caused the death of a Mexican citizen named Guadalupe Machuca, I have the honor to inform you that the appropriate branch of this Government has investigated this matter and has reported that a United States Army patrol, while in the performance of its duty on the American side of the river, was fired upon by Mexicans from the Mexican side of the international boundary line. The American soldiers returned the fire, killing one of the Mexicans.

The authorities who made the investigation state that, in their opinion, the members of the patrol acted in self-defense and were justified in returning the fire of the Mexicans.

Accept [etc.]

For the Acting Secretary of State:

WILLIAM PHILLIPS

EXPRESSION OF FRIENDSHIP OF THE UNITED STATES TOWARD
MEXICO AND ALL LATIN AMERICA—ATTITUDE
OF THE PRESS

Address of President Woodrow Wilson to a party of visiting Mexican editors, June 7, 1918, on the policy of the United States toward Mexico and all Latin America¹

GENTLEMEN, I have never received a group of men who were more welcome than you are, because it has been one of my distresses during the period of my Presidency that the Mexican people did not more thoroughly understand the attitude of the United States toward Mexico. I think I can assure you, and I hope you have had every evidence of the truth of my assurance, that that attitude is one of sincere friendship. And not merely the sort of friendship which prompts one not to do his neighbor any harm, but the sort of friendship which earnestly desires to do his neighbor service.

My own policy, the policy of my own administration, toward Mexico was at every point based upon this principle, that the internal settlement of the affairs of Mexico was none of our business; that we had no right to interfere with or to dictate to Mexico in any particular with regard to her own affairs. Take one aspect of our relations which at one time may have been difficult for you to understand: When we sent troops into Mexico, our sincere desire was nothing else than to assist you to get rid of a man who was making the settlement of your affairs for the time being impossible. We had no desire to use our troops for any other purpose, and I was in hopes that by assisting in that way and then immediately withdrawing, I might give substantial proof of the truth of the assurances that I had given your Government through President Carranza.

And at the present time it distresses me to learn that certain influences, which I assume to be German in their origin, are trying to make a wrong impression throughout Mexico as to the purposes of the United States, and not only a wrong impression, but to give an absolutely untrue account of things that happen. You know the distressing things that have been happening just off our coasts. You know of the vessels that have been sunk. I yesterday received a quotation from a paper in Guadalajara which stated that 13 of our battleships had been sunk off the capes of the Chesapeake. You see how dreadful it is to have people so radically misinformed. It was added that our Navy Department was withholding the truth with regard to these sinkings. I have no doubt that the publisher of the paper published that in perfect innocence without intending to convey wrong impressions, but it is evident that allegations of that sort proceed from those who wish to make trouble between Mexico and the United States.

Now, gentlemen, for the time being, at any rate—and I hope it will not be a short time—the influence of the United States is somewhat pervasive in the affairs of the world, and I believe that it is pervasive because the nations of the world which are less powerful than some of the greatest nations are coming to believe that our sincere desire is to do disinterested service. We are the champions of those nations

¹ *The Official Bulletin*, Washington, June 11, 1918 (Vol. 2, No. 332).

which have not had a military standing which would enable them to compete with the strongest nations in the world, and I look forward with pride to the time, which I hope will soon come, when we can give substantial evidence, not only that we do not want anything out of this war, but that we would not accept anything out of it, that it is absolutely a case of disinterested action. And if you will watch the attitude of our people, you will see that nothing stirs them so deeply as assurances that this war, so far as we are concerned, is for idealistic objects. One of the difficulties that I experienced during the first three years of the war—the years when the United States was not in the war—was in getting the Foreign Offices of European nations to believe that the United States was seeking nothing for herself, that her neutrality was not selfish, and that if she came in, she would not come in to get anything substantial out of the war, any material object, any territory, or trade, or anything else of that sort. In some of the Foreign Offices there were men who personally knew me, and they believed, I hope, that I was sincere in assuring them that our purposes were disinterested, but they thought that these assurances came from an academic gentleman removed from the ordinary sources of information and speaking the idealistic purposes of the cloister. They did not believe that I was speaking the real heart of the American people, and I knew all along that I was. Now I believe that everybody who comes into contact with the American people knows that I am speaking their purposes.

The other night in New York, at the opening of the campaign for funds for our Red Cross, I made an address. I had not intended to refer to Russia, but I was speaking without notes and in the course of what I said my own thought was led to Russia, and I said that we meant to stand by Russia just as firmly as we would stand by France or England or any other of the Allies. The audience to which I was speaking was not an audience from which I would have expected an enthusiastic response to that. It was rather too well dressed. It was not an audience, in other words, made of the class of people whom you would suppose to have the most intimate feeling for the sufferings of the ordinary man in Russia, but that audience jumped into the aisles, the whole audience rose to its feet, and nothing that I had said on that occasion aroused anything like the enthusiasm that that single sentence aroused. Now, there is a sample, gentlemen. We can not make anything out of Russia. We can not make anything out of standing by Russia at this time—the most remote of the European nations, so far as we are concerned, the one with which we have had the least connections in trade and advantage—and yet the people of the United States rose to that suggestion as to no other than I made in that address. That is the heart of America, and we are ready to show you by any act of friendship that you may propose our real feelings toward Mexico.

Some of us, if I may say so privately, look back with regret upon some of the more ancient relations that we have had with Mexico long before our generation; and America, if I may so express it, would now feel ashamed to take advantage of a neighbor. So I hope that you can carry back to your homes something better than the assurances of words. You have had contact with our people. You know your own personal reception. You know how gladly

we have opened to you the doors of every establishment that you wanted to see and have shown you just what we were doing, and I hope you have gained the right impression as to why we are doing it. We are doing it, gentlemen, so that the world may never hereafter have to fear the only thing that any nation has to dread, the unjust and selfish aggression of another nation. Some time ago, as you probably all know, I proposed a sort of Pan American agreement.¹ I had perceived that one of the difficulties of our relationship with Latin America was this: The famous Monroe Doctrine was adopted without your consent, without the consent of any of the Central or South American States.

If I may express it in the terms that we so often use in this country, we said, "We are going to be your big brother, whether you want us to be or not." We did not ask whether it was agreeable to you that we should be your big brother. We said we were going to be. Now, that was all very well so far as protecting you from aggression from the other side of the water was concerned, but there was nothing in it that protected you from aggression from us, and I have repeatedly seen the uneasy feeling on the part of representatives of the States of Central and South America that our self-appointed protection might be for our own benefit and our own interests and not for the interest of our neighbors. So I said, "Very well, let us make an arrangement by which we will give bond. Let us have a common guaranty, that all of us will sign, of political independence and territorial integrity. Let us agree that if anyone of us, the United States included, violates the political independence or the territorial integrity of any of the others, all the others will jump on her." I pointed out to some of the gentlemen who were less inclined to enter into this arrangement than others that that was in effect giving bonds on the part of the United States, that we would enter into an arrangement by which you would be protected from us.

Now, that is the kind of agreement that will have to be the foundation of the future life of the nations of the world, gentlemen. The whole family of nations will have to guarantee to each nation that no nation shall violate its political independence or its territorial integrity. That is the basis, the only conceivable basis, for the future peace of the world, and I must admit that I was ambitious to have the States of the two continents of America show the way to the rest of the world as to how to make a basis of peace. Peace can come only by trust. As long as there is suspicion there is going to be misunderstanding, and as long as there is misunderstanding there is going to be trouble. If you can once get a situation of trust, then you have got a situation of permanent peace. Therefore, everyone of us, it seems to me, owes it as a patriotic duty to his own country to plant the seeds of trust and of confidence instead of the seeds of suspicion and variety of interest. That is the reason that I began by saying to you that I have not had the pleasure of meeting a group of men who were more welcome than you are, because you are our near neighbors. Suspicion on your part or misunderstanding on your part distresses us more than we would be distressed by similar feelings on the part of those less nearby.

¹ *Foreign Relations, 1916, p. 3.*

When you reflect how wonderful a storehouse of treasure Mexico is, you can see how her future must depend upon peace and honor, so that nobody shall exploit her. It must depend upon every nation that has any relations with her, and the citizens of any nation that has relations with her, keeping within the bounds of honor and fair dealing and justice, because so soon as you can admit your own capital and the capital of the world to the free use of the resources of Mexico, it will be one of the most wonderfully rich and prosperous countries in the world. And when you have the foundations of established order, and the world has come to its senses again, we shall, I hope, have the very best connections that will assure us all a permanent cordiality and friendship.

File No. 710.11/361

The Peruvian Minister (De Freyre y Santander) to the Secretary of State

WASHINGTON, June 11, 1918.

MY DEAR MR. SECRETARY: I take great pleasure in transmitting to you the following dispatch I have received upon this date from the Minister of Foreign Affairs of Peru:

LIMA, June 10, 1918.

Please express to the Secretary of State the satisfaction with which the Peruvian Government has taken notice of the declarations made by the President of the United States in the address he delivered to the Mexican editors, upon the Pan American treaty guaranteeing reciprocally territorial integrity among the nations of this continent, the text of which address has been published by the American Legation at Lima. Kindly also express our decision to participate in this agreement.

I am [etc.]

M. DE FREYRE Y S.

File No. 033.1211/25

The Ambassador in Mexico (Fletcher) to the Secretary of State

[Telegram]

MEXICO, June 12, 1918, 3 p. m.

1168. In an interview with President Carranza this morning I asked him his impression of the President's speech to the Mexican journalists. He answered with a smile that it was very good and that he hoped it would be corroborated by subsequent events and added that he had nothing more to say. I read to him the last draft of the President's Pan American treaty plan¹ referred to in the speech, and explained the causes which prevented its realization at the time proposed, and told him that the President hoped to be able to secure its adoption later. He said he had read something of it and seemed favorably disposed toward it.

FLETCHER

¹ *Foreign Relations*, 1916, p. 3.

File No. 710.11/362

The Chargé in Chile (De Billier) to the Secretary of State

[Telegram]

SANTIAGO, June 14, 1918.

Mercurio, June 12, commenting on President Wilson's speech to Mexican newspaper men, refers to Monroe Doctrine as having saved continent. True that suspicions later aroused by brusque methods by which United States acquired certain territory and tendency to imperialistic policy but Roosevelt sent Root and cleared up misapprehension. Recently collaboration of Argentina, Brazil, and Chile in Niagara Conference and Wilson plan for confederation of states have done much toward mutual understanding, but more than all, noble attitude of United States in present war and her resolve to pay for defense of weaker nations with blood of millions of her sons perhaps, seals future tranquillity of America. Presidential reference to certain states who seem less likely to go into confederation arrangement than others probably means South American Republics which have shown themselves shy about such a plan without studying thoroughly possibilities and risks. Chile has feared chapter referring to political inviolability where be big field for discord [sic]. Whether allusion made to South American Republics or not, this discourse, in which every American should be interested, being studied.

El Diario, June 14, says Mexico only nation not sharing growing confidence in United States awakened by respectful and disinterested policy. If *rapprochement* sought by Wilson with Mexico comes about, be great step in Pan-American solidarity. Policy of present President of the Union, which, if shared by all the Republic, indicates great moral progress and decisive advance in American relations. United States attitude toward Cuba, A. B. C. mediation, entry of United States into war wherein they have spent their gains as neutral and now drawing on principal are eloquent facts. Wilson confederation states plan which was matter of negotiation or conversation in 1916 now acquires its value and transcendency and, as Wilson says, this sort of agreement must be foundation of future life of nations of world. God grant it may be accepted at end of war.

Mercurio, June 13, referring invitation of United States to Chancellor Brum of Uruguay, says this unusual act of courtesy on part of American Government confirms once more policy of Chancery at Washington manifested so many times lately that in American concept there are no large nor small sovereignties, no strong nor weak ones, but sovereignties independently respected for their capacity as a state. Fact that smallest State of South America chosen shows wholeheartedness of policy.

DE BILLIER

File No. 710.11/371

The Consul General at Guayaquil (Goding) to the Secretary of State

GUAYAQUIL, ECUADOR, June 15, 1918.

SIR: I have the honor to enclose a translation of an editorial which appeared in *El Telegrafo* of Guayaquil, in its issue of June 13, 1918.

This outspoken article, while well received to-day, would have caused the death of the editor had it appeared a few years ago in Ecuador, clearly showing the great change in sentiment by the Ecuadorans toward the United States and its people.

That the changed feelings occurred during my incumbency at this post is a source of great satisfaction to me; and I feel justified in assuming that at least a part of it is due to the efforts made at this office.

I have [etc.]

FREDERIC W. GODING

[Enclosure—Translation]

Editorial from "El Telegrafo," Guayaquil, Ecuador, June 13, 1918

AMERICA FOR THE AMERICANS

One of the results of the World's War is going to be the commendation of the Monroe Doctrine; America for the Americans; for justified selfishness and in defense of the people of the new continent.

Yet the most beneficent doctrines of this diplomacy are in disfavor; it is indispensable to protect the union, because no other method is going to save the weaker nations from the outrages of the stronger ones.

In South America, where her vast riches and her enormous extensions of fertile lands must be an ample reward that compensates the privations undertaken, the proclamation of the Monroe Doctrine should be in force as a protector so as to block in time the aspirations of the conqueror, who would desire to chain these smaller nations into his larger political unit.

America for the Americans. We should proclaim it—we should publish it—we should untiringly herald such a doctrine.

And the nations of South America will give a worthy example of prudence and sagacity by attaching themselves to the Americans of the other continent, uniting themselves to them, binding themselves in a loyal fraternity to form a solid unit, invulnerable by the solidity of their brotherhood, without stopping to regard the jingoism of the so-called Yankee peril.

Candidly we do not believe that such a danger exists. United States of America maintains commercial relations on a large scale with Brazil, Chile, Argentina, and Peru, among other nations, yet Peru, Chile, Argentina, and Brazil have not lost their self-government; not even is there the remotest idea that such a danger threatens them, and above all, it is incredible that such a danger should come from the Grand Nation of the North; but to the contrary we should note how much the banks, the commerce, the agriculture and the industries of these nations have benefited by the reciprocal trade relations.

In opposition to our assertion you might cite the cases of Mexico, Cuba, Philippines, Panama, Puerto Rico and Haiti, but these facts do not bring a loss of prestige to the Grand Republic, because one must know the conditions of prosperity, of ease, and even independence that these countries enjoy in order to judge if they have or have not received the benefit of the paternal protection in the propitious hours of their civilization, and from whence these advantages were obtained.

Furthermore, this is not the point in question, since as with Texas and California, Philippines and Haiti, Cuba and Panama, the United States had to take the attitude with which it is now reproached; and we must consider the various conditions that entered into the situation—conditions absolutely distinct from those that apply to the nations of South America.

The United States, in its international relations with the countries of the southern continent, can not be lured by other than sentiments of mutual commercial expansion; and we think in this respect that its greater inducement would be to see these nations prosperous, because that which concerns the Monroe Doctrine is to remotely remove the danger of a European invasion and conquest, and to promote a mutual increase of her industries and commerce. We believe that there is no doubt but that one of the best aspirations of the United States must be to convert South America into her best import and export market. This policy would favor one continent as much as the other.

Why doubt? Why fear?

These mere digressions also occurred to us, and surely they have no more repetition than that of the morbid patriotism of the political chauvinists.

for the reason of the invitation made to the countries of the American Continent to celebrate the classic date of July 4, as a symbol of the union that ought to prevail among the free countries of America; perhaps it will serve as wholesome information to the ambitions which arise in Europe; but surely it will serve as a challenge to the pretensions of those who desire to compensate their losses in the easy fields of this marvellous continent.

It is well that the people should know that America is not a land of conquest; that here the union is eulogized as the only means to reject the attacks of the powers; that America will be, as at present, only for Americans in the purest and most virtuous of its acceptations.

Matters being thus, why not celebrate the Fourth of July? Why not adopt this date, which commemorates the independence of our eldest sister of the North, as a classic date of liberty, under shelter of the starred flag and under authority of the rulers of the Republic at Washington? Even to-day let us renew constantly the oath of freedom and of self-sacrifice in order to preserve the inestimable pledge of liberty that the Fathers of the Fatherland bequeathed to us.

All for one, one for all.

This should be the motto that America should impose, thereby profiting by the peril that the European conflict brings with it.

File No. 711.12/96

The Ambassador in Mexico (Fletcher) to the Secretary of State

[Telegram]

MEXICO, June 17, 1918, 11 a. m.

1189. *Pueblo*, in third editorial headed "President Wilson threatens Mexico," maintains that Mexico ought not to recognize right of the United States to protest against sovereign legislative acts. *Universal*, in first of series of editorials, attacks United States protest as contrary to rule of international law that every state may legislate freely provided foreigners and nationals are treated alike. *Democrata* editorial, referring to President Wilson's speech, says little brothers must shake off the tutelage of the older brother and that the Carranza doctrine will substitute the arbitrary tutelage imposed by the Monroe Doctrine.

FLETCHER

File No. 710.11/364

The Ambassador in Argentina (Stimson) to the Secretary of State

[Telegram]

BUENOS AIRES, June 17, 1918, 4 p. m.

The speech of President Wilson to the Mexican journalists has been printed in full in the leading papers here, including the Government organ *La Epoca*, and has made a profound impression both in official circles and among the people generally. No public utterance could have better impressed public opinion, the truth as to the aspirations and ideals of the United States. Until the present time, there has been no extended editorial comment except in that portion of the press controlled by members of the Allied nations. The *Nación* of June 16 contains a very long article presumably written by José Luis Murature, former Minister of Foreign Affairs, entitled "Wilson and Pan American Ideals," which very ably interprets, from the Argentine point of view, the leading ideas in the President's speech. The following are paragraphs of particular interest:

The world is a debtor to President Wilson for the immense benefit which he has conferred upon it by looking upon the war in which his country is engaged from a moral viewpoint as the pursuit of an ideal, and because he has at the same time known how to direct and manage the strength of a continent by proposing to it a unity of action in unity of ideals, linking Pan Americanism with the European war, and explaining the significance of Pan Americanism in relation to the ideals which the human race to-day is following.

The oldest American nation enters the World War opposing precisely those nations, who are the heads to the [Holy] Alliance, in order to bring about American ideals of liberty and respect for the independence of peoples, sole arbiters of their own destinies. And Wilson in the course of his speech to the Mexican journalists turns to the whole continent and says: "This is our ideal, this is Pan Americanism."

The term of Pan Americanism during many years was the cause of anxiety and caviling on the part of Latin America. What does Pan Americanism mean? Political hegemony, territorial expansion, North America commercial domination? To-day, however, all suspicion must vanish; the President of the United States has been able to speak with the authority which is given him by fact that his deeds in the course of the negotiations are in conformity with his words now. His nation has entered the war, impelled by an ideal which is the only means of moving human beings, and his people sacrificing willingly and gladly lives and property, tremble with enthusiasm merely at the idea that they seek no material interest.

And since the ideal, the supreme sociological factor tends to unify, it will be difficult in the future for men of spirit in America not to feel themselves bound together. If that ideal is Pan Americanism we are all Pan Americans.

STIMSON

File No. 711.12/106

The Ambassador in Mexico (Fletcher) to the Secretary of State
No. 1135

MEXICO, June 19, 1918.

SIR: In continuation of my despatch No. 1123, of June 12, 1918,¹ I have the honor to forward herewith summaries and translations of the articles which have appeared in the press of Mexico City in the past week with reference to President Wilson's speech to the Mexican newspaper men.

Two days after President Wilson's speech was published here, the Mexican Government, in an endeavor to prove its insincerity and to destroy the good effect which was undoubtedly being made, furnished through Aguirre Berlanga, the Minister of the Interior, all the newspapers of Mexico City with a translation of my note of April 2,² protesting against the petroleum decree of February 19, and ordered them to print it with display headings. The Department will see by the clippings herewith that these instructions were carried out. The *Democrata* (German) and the *Pueblo* (Government) gave the note a scare head as a threat of intervention on the part of the United States.

I invite particular attention to the editorial in the *Pueblo* of the 14th (a summary of which was telegraphed to the Department in my telegram No. 1175, of June 14, 1 p. m.³) The article faithfully reflects the attitude of President Carranza and his Government. I have been told that it was written by the Minister of the Interior himself. Be this as it may—the *Pueblo* is the mouthpiece of the Government and the article was inspired by President Carranza.

¹ Not printed.

² Post, p. 713.

Under orders of the Government, apparently, the *Universal* and the *Pueblo* have been running a series of editorials attacking my note. The *Pueblo* carried all its editorials under the heading, "President Wilson Threatens Mexico."

I have [etc.]

HENRY P. FLETCHER

[Enclosure 1]

Summary of an editorial from "El Pueblo," Mexico, D. F., June 14, 1918

PRESIDENT WILSON THREATENS MEXICO

THE CONTRASTS: PRESIDENT WILSON'S ADDRESS AND AMBASSADOR FLETCHER'S NOTE

In this editorial a comparison is made between the address made by President Wilson to the Mexican newspapermen, and the note addressed by Ambassador Fletcher to the Mexican Foreign Office on April 2, 1918, regarding the petroleum decree of February 19, 1918.¹

The Ambassador's note is disqualified from a technical point of view; in it can be seen the carelessness of a diplomacy backed by force.

The two historical documents should be compared. The first (President Wilson's address) is a theatrical, sonorous speech given openly to the world, to make a show of benevolence, disinterestedness, and nobility. The second was intended to be secret, covered by diplomatic discretion, harsh, concise, interested, threatening, and gives an eloquent indication of what the powerful neighbor is capable of doing to protect the property of its citizens in Mexico. Each gives the lie to the other. The speech is, in form, correct and academic, and at bottom, affectionate, insinuating, and attractive. The note does not need diplomatic periphrasis in order to say the most harsh and false things. It contains such phrases as: "So far as my Government is aware, no provision has been made by your excellency's Government for just compensation for such arbitrary divestment of rights." This is what our law is called. According to the note, the decree is a confiscation of private property, an unjust imposition, the spoliation of American citizens, the arbitrary divestment of property rights, etc. It says no measure has been taken to prevent such spoliation, and then, it frankly announces armed intervention.

Why reason: "I don't like this; it is not to my interest; I shall intervene to *protect* my properties"? This is the sum total of the spirit and sense of the note. And outside, the galleries applaud, the pro-Allies, followers, Americanists, a certain "Committee of Information," etc., are gaily decorated, proclaiming friendship and confidence, and trying to fool Mexico into thinking that there is no cause for fear.

We cry, with a cry of anguish, that all this is a lie, and that that address of peace and friendship presages great happenings. Every such word has been followed by an aggression. It was thus before the Vera Cruz affair; so it was before the punitive expedition. Fresh in our mind are the repeated assurances of non-intervention, of disinterestedness, of help and assistance, the truth of which can be judged by seeing our ports blockaded, our borders closed, our communications interrupted, our correspondence censored, our existence in danger, our security doubtful, and our prosperity and commerce attacked by an enemy more dangerous because of his mutability.

Heaven has been good to us by giving us good crops; otherwise we should now be starving if our only source of supply were the United States, and we had to take what they saw fit to give us.

Comparing the two documents, the conclusion is reached that the United States is playing a double game with us; it is the same as that of 70 years ago; its diplomacy with us is, as always, despotic, lacking in logic, discourteous. It differs from that of 70 years ago in that it is more complicated, as it brings before the world a show of friendship which in the end is fragile. What was the object of the address? Why was it directed at Mexico only? It was to deaden our lack of confidence and suspicions and secure pardon for the only too recent affronts of Vera Cruz and the punitive expedition. There is, however, an instinct in the people not to be deceived by words, words, words. Certain politicians lauded the address. Let us hear from them now, a defense of the note of Ambassador Fletcher.

¹ Post, p. 702.

[Enclosure 2]

Summary of an editorial from "El Pueblo," Mexico, D. F., June 17, 1918

PRESIDENT WILSON THREATENS MEXICO

MEXICO SHOULD NOT RECOGNIZE THE RIGHT OF THE UNITED STATES TO "PROTEST" AGAINST LEGISLATIVE ACTS OF ITS SOVEREIGNTY

The editorial is based on the last paragraph of Ambassador Fletcher's note in which he states:

Acting under instructions, I have the honor to request your excellency to be good enough to lay before His Excellency the President of Mexico, this formal and solemn protest of the Government of the United States, against the violation or infringement of legitimately acquired American private property involved in the enforcement of the said decree.

Diplomatic representations begin with protests, are followed by an offense, and end by diplomatic or armed intervention. Protest and intervention—we have shown that the protection announced is equivalent to intervention—are both contained in Mr. Fletcher's note.

A legislative act is an act of sovereignty; that is, it is the undisputed, absolute, permanent and universal right which each state possesses as a personal entity under international law. This applies to the external as well as the internal sovereignty of a nation.

No nation has the right to interfere with another's tax legislation. However absurd or onerous it may be, both natives and foreigners must submit to its provisions. To place diplomatic representation at the service of private interests is an erroneous conception of the high functions of diplomacy.

The decree establishes a tax applicable to aliens and natives alike, so that it can not be considered as confiscatory, as the American Ambassador erroneously terms it.

We do not know what answer the Government will give to the note, but Mexico's sovereignty and the right of the people to govern themselves is indisputable and must not be questioned. We must state to the entire Nation that our Foreign Office must not permit any interference in the country's affairs by the United States, and the door must be closed to any precedent which would allow of aggressive and inconsiderate interferences by the United States or any other Government.

File No. 711.12/102

The Secretary of State to the Ambassador in Mexico (Fletcher)

[Telegram]

WASHINGTON, June 24, 1918, 4 p. m.

1196. Department has read with great interest your strictly confidential despatch No. 1123¹ and the attached quotations from Mexican newspapers respecting the President's speech. The publication of the petroleum note of April 2 immediately after the publication of the speech was apparently a desperate effort on the part of German sympathizers in the Government to discredit President Wilson's friendly assurances. The Department concluded that it would be best, for the present at least, not to issue any statement explaining that the note and the speech were entirely consistent in that the note simply asked from Mexico the same kind of justice the President promised Mexico in his speech.

It is clear that the good effect produced in Mexico and in South America generally by the President's speech will soon disappear unless some concrete and tangible means are found to drive home to

¹ Not printed.

the Mexican people a settled conviction that the President is determined to translate into action his expressions of friendship. Consideration of convenience must be swept aside and a generous liberal attitude must be adopted by the United States toward the Mexican people so that it cannot be said that our assurances of friendship are mere idle words which when put to the test fall to nothing.

Your views as to the most practicable way of effecting this result are desired by the Department. The Department is prepared to authorize you to go even further than you have already gone in offering to resume the negotiations looking to the more free exportation of commodities from this country to Mexico in spite of the fact that these negotiations were heretofore terminated in a most abrupt manner by President Carranza.¹ Appreciating the pride of the average Mexican official, the German influence affecting certain of these officials and the anti-American feeling prevalent among certain classes of Mexicans, the Department is ready, in order to negative these adverse influences, to go more than half way in taking steps to cause a resumption of normal commercial intercourse between the two countries and to stimulate the shipment to Mexico of commodities needed there and also required in this country. In other words, the Department is prepared to ask the appropriate authorities here to make sacrifices so as to supply Mexico more adequately with certain commodities. Having tried in every other way to prove to the Mexican people that the United States is their friend, and having met with indifferent success, the Department is ready to adopt the policy above outlined should you so advise. You are requested to report at once by wire your advice in respect to the following:

(1) The advisability of your seeking an interview with President Carranza and orally conveying to him the desire of the Government of the United States to give concrete expression to the friendly sentiments expressed in the President's speech, and to settle once and for all the many commercial, financial, and other questions now pending between the two countries, pointing out to him that the United States earnestly desires the political integrity and commercial prosperity of its neighbor and would gladly cooperate in supplying her with her needs in exchange for such of her products as she did not herself imperatively need. If you thought it wise you could add that this Government would be glad to facilitate a loan by private American interests to the Mexican Government on terms mutually agreeable.

(2) The sending to Mexico City of representatives of this Government to meet with Mexican officials in a conference for the purpose of adjusting all pending questions between the two Governments. This conference would, of course, be opened by President Carranza and presided over by a man designated by him. It would be Department's purpose to have you head the American delegation.

(3) The adoption by this Government without any preliminary negotiations, simply by an announcement, of a most liberal

¹ See "Negotiations for closer commercial relations with Mexico," *post*, p. 601.

embargo policy, trusting in this way by our generosity to win the favor of the bulk of the Mexican people.

The Department is in no way committed to any of these suggestions. One thing only is clear. In view of the President's speech some material evidence of our friendship and disinterestedness should at once be given the Mexican people. Your views as to the most appropriate kind of action are earnestly desired.

The Department has had full conference with Garfield and is not considering any modification of its petroleum note of April 2.

LANSING

File No. 711.12/113

The Ambassador in Mexico (Fletcher) to the Secretary of State

No. 1156

MEXICO, June 26, 1918.

SIR: Continuing my strictly confidential despatch No. 1135 of June 19 last, I have the honor to enclose complete summarized clippings of articles appearing in the past week bearing on Mexican relations with the United States as evoked by the President's speech and our note of April 2 in regard to the petroleum decree.

The substance of most of these articles had been telegraphed to the Department, which has no doubt noted the acrid tone of all of them. In the Department's telegram No. 1196 of June 24, 4 p. m., the Department seems disposed to attribute this outburst in the press "to a desperate effort on the part of German sympathizers in the Government to discredit President Wilson's friendly assurances." But it is more than that. No doubt pro-German influences have contributed their efforts to bring this about, but President Carranza is the real *deus ex machinâ*. He is the Government of Mexico. The editorials of *El Pueblo* and *El Universal* reflect his sentiments and those of all Simon-pure revolutionists, and are directly inspired by him; those of *El Demócrata* reflect the German influence.

The outstanding fact is that the Mexican Government did not receive cordially the message contained in the President's recent speech to the Mexican journalists, and immediately set about to destroy its effect by the publication of my note of April 2 which this Government considers unjust, threatening, and injurious to its pride and prestige, and as interfering with the free enforcement of its fundamental law and the exercise of its sovereign rights, and in this uproar the question of simple justice and national good faith is entirely overlooked.

I have [etc.]

HENRY P. FLETCHER

[Enclosure 1]

Summary of an article by Luis G. Urbina in "El Universal," Mexico, D. F., June 19, 1918

MR. WILSON'S ADDRESS AND MR. FLETCHER'S NOTE

The preamble states that in his travels abroad, Mr. Urbina has seen, more clearly because at a distance, the greatness of his people and country, the geographical and political importance of Mexico in the Americas, and the great importance which the country's relations with the United States have in Mexico's future.

As regards Mr. Wilson's address, he wondered if it marked a change in the policy of the United States toward Mexico; he could scarcely believe in a friendship which not only abstained from injuring Mexico, but desired to render a real service, and this in a period of difficulties between the two countries. However, the thought was encouraging and consoling.

However, no one failed to think that in Mr. Wilson there was a dual personality; the idealist, dreamer of liberty and justice, whose ideals were destroyed by the politician. Everyone says: There is a duality in Mr. Wilson, or even duplicity. His words are not in accord with the facts. The executive does the contrary to what the idealist says. His humanitarian eloquence has been constant and firm, but his warped and distorted policy is not humanitarian; it is selfish. There are those in Europe and America who see in the clear and easy oratory of Mr. Wilson a fine sense of malice. Is this a characteristic of the race? Secular observations would seem to indicate that it is. The fear is proverbial that in the clear current of a Saxon diplomatic note, there may be diluted a grain of perfidy.

With President Wilson the case is curious. His acts contradict his words, but without any apparent object, or preconceived plan. The result is always harmful, but a careful examination will show that the harm caused does not always benefit the American people. It is suspected that Mr. Wilson is extremely sensitive to outside influences.

As an example: A short time ago there did not exist a more ardent partisan of peace. To-day there is no one more energetically and blindly a propagandist of war; a more tremendous expounder of extermination is unknown.

Yesterday he said, "For humanity's sake there should be neither victory nor defeat." He backed it with calm reasoning.

To-day he says, "We Allies must conquer for the good of humanity." And his energetic statement is based on a fervent sentimentalism.

The worst is that this sentimentalism, more than his former arguments sounds false.

His statement that the United States are the defenders of weak nations does not concur with the offenses committed with respect to Latin American nations.

These flagrant anomalies oblige one to suppose that Mr. Wilson has too much intelligence and too little force of character. Is he intellectual? A simpleton? If so, he is a danger for the American people.

He ridicules the claim to disinterestedness in the Allied cause.

We Mexicans would have no right to doubt Mr. Wilson's protests of friendship, were it not for the fact that our memories recall incidents which tend to disprove those protests.

We believe the time has come to strengthen our ties with the United States, but this can only be done when facts confirm the words of friendship. It would be disagreeable to-morrow, in recalling Mr. Wilson's address, to have to say with Hamlet: "Words! Words! Words!" These were my thoughts when I read the President's statement.

But the newspapers of yesterday reserved a surprise for me: the publication of Ambassador Fletcher's note.

[Enclosure 2]

Summary of an article by Luis G. Urbina in "El Universal," Mexico, D. F., June 26, 1918

AMBASSADOR FLETCHER'S NOTE AND PRESIDENT WILSON'S ADDRESS

This is the second of a promised series of articles on the subject.

The Ambassador's note half conceals under polite diplomatic language the principles of grab and force, and while somewhat ambiguous, has a threatening aspect. The American Government has no legal grounds on which to sustain the note and its pretensions are unacceptable because founded on egotism and caprice. The contrast between the protests of a sincere friendship and the threats of an iniquitous violation give to the President's words a strongly malignant character. Rereading the President's speech, one finds in it also proud phrases of domination, echoes of the voice of the subjugator; in his reference to the elder brother rôle of the United States there is an imposition

which is as energetic verbally as it is humiliating morally. The Spanish-American nations should take note of what Mr. Wilson says and what Mr. Fletcher writes. They are dissimilar but nevertheless have points of contact; the decision of a new imperialist country to dominate the continent. It preaches liberty and justice but prepares to exercise force. But yet there is a conflict between the speech and note. One excludes the other. There can be no agreement between a friendship which desires to do effective services and a note which treats of imposing an injustice and which threatens a territorial occupation. Mr. Wilson may be little sincere and Mr. Fletcher imperative, but the President for the honor of the nation should define his equivocal conduct and decide either to rectify his words of adhesion and friendship or withdraw the Ambassador's note. Sincerity and humbug have appeared simultaneously in our international problems and one or the other must disappear. It is possible but not probable that President Wilson had no knowledge of the note of Mr. Fletcher and of what was going on in the State Department. Let us hope so as this would remove all difficulties and the withdrawal of the note would follow naturally and spontaneously. This could be the beginning of an open policy and of a frank and true friendship between the two countries.

[Enclosure 3]

Summary of an article from "El Pueblo," Mexico, D. F., June 24, 1918

THE MONROE DOCTRINE ANNULLED BY THE CARRANZA DOCTRINE MEXICO'S INTERNATIONAL PROBLEM

This appears to be first of a series of articles on the subject, and mentions the series of editorials already published commenting on Ambassador Fletcher's note on petroleum, in which it was stated: (1) The protection threatened is nothing more nor less than armed intervention, i. e., war; (2) that the Government should answer the note by energetically rejecting the protest, and denying to the United States the right for a single instant to protest against the country's interior policy; and (3) the Ambassador's note was shown in contrast to the President's friendly words in his address to the Mexican journalists.

The old and the new foreign policy. Previously, Mexico's foreign policy did not look ahead; it was stagnant, blindly following precedent. It was not energetic. Now, since Carranza took the reins of Government, all has changed; the new policy is vigorous and strong.

Mexico's foreign relations. These have a double point of view: the American continent and Europe. The first has two problems: the United States and Latin America. The second (European relations) shows that in former times nothing was done to use them to make Mexico benefit thereby, excepting in the latter days of the Diaz régime when European immigration was being encouraged.

Mexico's fundamental problem. It is that of absolute independence of the United States and complete equality, with a well-established friendship, with respect to Latin American republics.

Of this double problem, the most important feature, that which must receive our every thought and attention, that which should be a matter of tradition, line of conduct and plan of our Foreign Office, is absolute economical, political, diplomatic, interior and exterior independence from the United States.

Our relations and influence in America and Europe, as well as our prestige, all depend upon securing an absolute independence with respect to the United States. We shall never tire of repeating that this is our grave, our profound problem. We must never permit ourselves to be misguided in respect to our situation with regard to the United States. Our economic dependence on that country is most manifest; we depend on it for everything—capital, assistance in the development of industries, the maintenance of our lines of communication, machinery, and even articles of prime necessity.

We do not evade the inflexible social law of interdependence; but that interdependence must be based on mutual respect and that equality which Mexico should conquer and maintain at any cost.

Let us study, therefore, the fundamental problem: Mexico and the United States.

[Enclosure 4]

*Summary of an article from "El Pueblo," Mexico, D. F., June 25, 1918***THE MONROE DOCTRINE ANNULLED BY THE CARRANZA DOCTRINE
MEXICO AND THE UNITED STATES**

The relations between Mexico and the United States may be characterized as follows: Mexico has circled within an orbit in which American interests have been exclusively favored. Mexico's attitude generally has been defensive against aggressions and threatening notes or unfriendly intentions. Mexico has been for the United States a country of conquest and investment; favorable for securing quick and large fortunes. General Diaz, in favoring foreign investment, overstepped the boundaries of justice and granted great privileges to Americans, which the revolution is endeavoring to combat so as to place them on a level with the privileges of natives.

American influence is the result of the complacency of the Diaz régime, and it is also the system practiced in other Latin American countries. It seeks predomination in the entire continent and more or less open intervention in interior affairs of the nations.

The Monroe Doctrine.—To sanction this policy, care has been taken to establish a sort of principle or program of international conduct. This is not the Monroe Doctrine, so-called; but the imperialistic tendencies which have grown out of and seek to justify that doctrine.

Monroe, on December 2, 1823, made certain statements which it was agreed should be known as the Monroe Doctrine. They contained two features: First, regarding the colonization of the American continent, and second, relative to Spain's tendencies to reconquer her colonies. In conclusion the United States made themselves the protectors of all the American Continent.

As may be seen, the first two features no longer obtain. The concluding portion has been the subject of additions, amendments, and various interpretations, and has been so transformed that each President interprets it according to his personal ideas, so that in its present state it bears no resemblance to the original doctrine.

The doctrine's present status.—Declaring themselves to be the ardent defenders of the doctrine, they have given to it a double form: First, a policy tending to secure a preponderance in the New World and a policy of intervention in the foreign and internal affairs of the Latin American countries, but always respecting their independence. This is the policy of hegemony. Secondly, the policy of the United States tending to establish its political and commercial superiority throughout the world, by means implying the limitation of the independence of other states. This is the imperialistic policy.

It quotes the words of Pradier-Foderé, who said that to prohibit the intervention of other governments is in itself intervention.

The doctrine has from the start proclaimed as a principle intervention in Latin American countries, and has been the pretext to cover such offenses as the interventions in Cuba, Panama and Santo Domingo; the annexation of Texas, the projects of annexation of Yucatan and Santo Domingo, and the war against Spain. When it does not cover acts of force, it serves for work of disorganization in the increasing prosperity of some Latin American countries. Admirable doctrine, it serves for everything, it stretches or shrinks, masks or unmasks itself, makes war or peace, distributes good and ill, stands for right or wields destruction. To it does the United States owe the distrust felt in all America; because of it will that country always fail in its attempts at friendship, because it will not be believed.

Interventionism or imperialism, or the desire for conquest, and hegemony at any cost, or greatest and only political, commercial and general influence, have been erected to the status of "doctrine." Under the name of doctrine have ambitions and caprice been hidden.

The Latin American Republics never have and never will, accept such principles. They do not believe that the said doctrine is the safety valve of the continent; they all consider themselves to be of age, and able to take care of themselves.

The declaration of Monroe—the name we will hereafter give it—is destined to disappear, not on account of the German submarines, as an ignorant writer has stated, but because of the energetic, persevering and lucid labors of President Carranza. All the reproof to which the Monroe declarations have been

subjected; all the horror and distrust it has inspired; all that instinct of defense manifested in the mechanical and close union of Latin America; all that desire for true liberty of action and intention; all have been embodied in that which from now on we can call the Carranza Doctrine; and that is a doctrine, because it teaches and shows the principles of universal brotherhood and of the practices of dignity and true independence, and it is destined to destroy the effects which were attributed to the other.

The Carranza Doctrine cancels the Monroe Doctrine.

Let us discuss the Carranza Doctrine.

[Enclosure 5]

Summary of an article from "El Pueblo," Mexico, D. F., June 26, 1918

THE MONROE DOCTRINE ANNULLED BY THE CARRANZA DOCTRINE

THE CARRANZA DOCTRINE

The Carranza Doctrine has been formulated, or better said, is the result of an accumulation of declarations and practices which have been registered during the revolution, and which gave a new turn to Mexico's external affairs. These declarations and practices are in reality a doctrine, because they serve as a lesson to public men, present and future, and may be attributed to President Carranza, because they were and are the fruit of his thoughts and ideas.

Mr. Carranza has established the essential principles thereof in diplomatic notes, speeches, etc. His acts are the best demonstration of his principles. It is these we desire to bring together into a harmonious system.

The elements of the doctrine.—These are two: the acts of the President, and his statements.

Carranza's international conduct.—The policy which marks a new epoch in the annals of international law as practised by Mexico, is based on the following principal acts:

1. When the United States endeavored to represent European countries in making representations to Mexico on account of incidents arising from the revolution, Mr. Carranza rejected such representations, stating that they should come direct from the Government interested. This attitude angered all the Governments.

2. The Benton case is shown as an instance. The United States threatened intervention and rapidly concentrated troops on the border. Carranza was asked by many to submit to the exactions of the United States, but he refused, taking upon himself the responsibility, and confiding in the fact that he had justice and right on his side.

3. The Spanish Government endeavored to obtain certain guarantees and protection for El Desengaño mine through the United States. Mr. Carranza's attitude was similar to the former.

These cases are a direct contrast to that of Bauch, an American citizen. The representations of the United States were given careful attention by Mr. Carranza.

These facts have a tremendous significance. Space does not allow of going into details, but it can be said that they are the most direct blow at the Monroe Doctrine as applied to Mexico and Latin America. European countries in asking that the United States make representations in their behalf, thereby recognized the Monroe Doctrine. To have accepted this principle would have been disastrous, as it would have admitted the loss of our liberty in foreign affairs. It is true that in these cases the United States alleged that Spain and England could not make representations direct because of the lack of representatives of those countries in Mexico. But Mexico replied that if they gave the United States express authority to act in their behalf, the representations would be accepted, but that this would not be done so long as such representations were based on the principles of the Monroe Doctrine. The First Chief rejected the protection never asked for and which he did not need, and obliged the European nations to deal with him directly.

Mexico again showed her immaculate dignity and noble pride in the A. R. C. Conferences when an endeavor was made to mix in Mexico's internal affairs. Mexico rejected the attempt and the Niagara Conferences failed.

The same conduct was observed with regard to Vera Cruz and the various incidents in the North, not mentioned in detail for lack of space.

All the preceding cases are not fully known by the public, because they are of such a nature as to require a certain reserve and discretion, in order that the feelings of others may not be hurt. Now is the time, however, to give them full publicity and show the policy which with such difficulty has been developed, and what has been gained by it for the honor of the country and the respect it should inspire.

File No. 711.12/109a

The Secretary of State to the Ambassador in Mexico (Fletcher)

[Telegram]

WASHINGTON, June 29, 1918, 8 p. m.

1220. Following statement issued to the press this morning. You may make it public if you see fit.

The Department's attention has been called to press comment published in Mexico to the effect that Ambassador Fletcher's note of April 2, 1918,¹ respecting the Mexican decree of February 19, 1918, establishing a tax on oil lands is inconsistent with the President's address to the Mexican editors now visiting this country. The United States Government would have appreciated being asked for its consent to the publication of this note inasmuch as this procedure is usually followed in diplomatic dealings between friendly nations. Such consent would of course have been readily given if the Mexican Government had intimated that it believed the note should be published.

An examination of the note proves that all that the United States asks for its citizens who have made investments in Mexico relying on the good faith and justice of the Mexican Government and Mexican laws is justice and fair dealing. There is no disposition on the part of the United States Government to interfere in the internal affairs of Mexico. However, the seizure of property at the will of the sovereign without due legal process equitably administered and without provision for just compensation has always been regarded as a denial of justice and a cause for diplomatic representation.

The President in his speech referring to Mexico's future said:

It must depend upon every nation that has any relations with her, and the citizens of any nation that has relations with her, keeping within the bounds of honor and fair dealing and justice, because so soon as you can admit your own capital and the capital of the world to the free use of the resources of Mexico, it will be one of the most wonderfully rich and prosperous countries in the world.

The President further pointed out that the basis for the future relations of nations was trust and said:

As long as there is suspicion there is going to be misunderstanding, and as long as there is misunderstanding there is going to be trouble. If you can once get a situation of trust, then you have got a situation of permanent peace.

The United States always desires to accord to the Mexican Government and people justice and fair dealing and it is confident that it will be accorded the same justice and the same fair dealing in return.

Note is [was here] quoted.

LANSING

File No. 711.12/109

The Ambassador in Mexico (Fletcher) to the Secretary of State

[Telegram]

MEXICO, June 30, 1918, 1 p. m.

1238. The *Pueblo* in last article on the derogation of the Monroe Doctrine by the so-called Carranza Doctrine urges: First, formal

¹ Post, p. 713.

declaration by President Carranza of non-recognition of Monroe Doctrine; other Latin American nations may be expected to make similar declaration. *Second*, moral and material offensive and defensive alliances with some powerful European or other nation, presumably against the United States; Latin America is natural ally but can only render aid on a small scale, hence, Mexico must negotiate European alliance, and above all, arm herself to the teeth. *Third*, negotiate treaties with Latin American nations to offset influence of the United States. Summary and text of article by pouch. I invite Department's study of these articles as they undoubtedly reflect sentiments of Mexican Government.

FLETCHER

File No. 711.12/110

The Ambassador in Mexico (Fletcher) to the Secretary of State

[Telegram]

MEXICO, July 1, 1918, 4 p. m.

1243. Your 1220, June 29, 8 p. m. Statement published to-day by *Universal*, *Excelsior*, and *Republica*. *Pueblo* did not publish it although given copy. Not furnished *Democrata*.

FLETCHER

File No. 711.12/115

The Ambassador in Mexico (Fletcher) to the Secretary of State

[Extract]

No. 1178

MEXICO, July 1, 1918.

SIR: I have the honor to confirm my strictly confidential telegram No. 1232 of June 28, 4 p. m.,¹ and to report that immediately upon the receipt of the Department's telegraphic instruction No. 1211 of June 26, 3 p. m.,¹ I arranged for a conference with President Carranza and was received by him at Chapultepec at noon last Friday.

I told him that I had been instructed by the Department to inform him of the President's desire to translate into concrete acts the friendly sentiments which he had expressed to the Mexican journalists at the White House several weeks ago. I referred to the fact that he himself, in an interview I had had with him week before last, had intimated that "actions speak louder than words." I told him that I had come to consult with him in friendly fashion as to how the President's policy of friendship could best be expressed in deeds. He seemed quite pleased to hear this and smilingly said that he thought that if the present restrictions on trade and intercourse between the two countries could be reduced to a minimum, all resentment would quickly disappear and friendly feeling be reestablished.²

He referred to the fact that practically everything Mexico produced went to the United States; that it was almost impossible to receive gold in return, and very difficult to receive the ordinary arti-

¹ Not printed.

² See "Negotiations for closer commercial relations with Mexico," post, p. 601.

cles of commerce, and that, as a result, Mexico was placed in a difficult and unjust position. He said that after seven years of internal upheaval, Mexico was obliged to remain neutral in the Great War, but he did not believe she should be made to suffer on that account. That the gold and food and the products which she believed she had a right to receive in exchange for the products Mexico exported to the United States, were intended solely for Mexican consumption and could not in any way, in his opinion, aid the enemies of the United States. He said he realized that there were some things which the United States could not spare for export, and that he did not and would not insist on the free importation into Mexico of such articles. He remarked, by the way, that he thought our black-list policy was having a bad effect in Mexico. He went on to say that he thought trade and intercourse between the United States and Mexico should be as free as possible, and that he hoped some day that free trade between the two countries might be brought about, that his idea was to work toward this end, and that if it were possible, he would like also to abolish export duties. He said that since our export embargo went into effect many vexatious and, in his opinion, unnecessary things had occurred, and as an instance he referred to a small present which had been shipped to him from Japan and concerning which American officials had raised many questions and difficulties at San Francisco.

He also referred to the difficulties he had encountered in securing a loan in the United States. He said he realized that our country was the only one in which he could secure a loan at this time; that he had received several propositions for a loan, but had committed himself to none of them; that he felt that without the friendly consent of the United States Government no loan could be successfully arranged. I remarked that I believed these difficulties would quickly disappear if the friendly feeling which President Wilson was so anxious to create between the two countries could be brought about.

I then broached the idea of a conference, as suggested by the Department's telegram. He replied that such a conference was unnecessary, and from past experience he believed it would accomplish nothing; that he thought all these matters could be satisfactorily arranged through conferences with me. He said that he and all the members of his Government had great confidence in me and my friendly sentiments and sincere desire to bring about friendly and cordial relations between the two Governments.

He then referred to my note of April 2 with reference to the petroleum decree. He said that it had made a distinctly bad impression because it threatened armed intervention in support of a particular interest; that the decree in question applied to Mexicans and foreigners alike, and that the American Government should not claim privileged treatment for its nationals. This is the cardinal principle of the so-called "Carranza doctrine". He repeated the complaints against the note which have appeared from time to time in the newspapers here, and with which the Department is familiar from the extracts which I have forwarded each week. In reply I endeavored to avoid argument of the point and stated that, in my opinion, the United States Government would have no difficulty in subscribing to the principle of equality of treatment of foreigners

and nationals, provided such treatment was absolutely fair and just; that the note merely asked for such justice for Americans who had made investments and acted in strict accordance with existing Mexican laws; that I had orally presented to his Minister for Foreign Affairs the Department's apprehensions with regard to the decree and urged such modifications as would make a protest on the principle involved unnecessary, and that it was only after the Minister for Foreign Affairs had informed me that no modification would be made in the decree as published, that the note was sent; that it was the Department's idea and hope that the note would serve to call the Mexican Government's attention to the seriousness of the question raised and to prevent action which might seriously involve the two Governments; as to the threat which had been read into the note (of which both the President and the Mexican newspapers at his inspiration have made so much), I told him that I did not believe the matter would or should be allowed by either Government to reach a stage where armed intervention or war would be the only means of protection, and that there were many peaceful and legal means short of that which could be resorted to in the settlement of the difficulty, and I mentioned that, in my opinion, the question was purely a juridical one concerning the interpretation of Mexican statutory and constitutional law. The President seemed to agree with this position and intimated that arbitration of the difficulty would be possible. I did not press this point as, in the light of past experience, I feared he might take the position that the Mexican Constitution was not the proper subject of arbitration by outside parties.

As several of the newspapers have stated that the Mexican Government was preparing a sharp reply to my note, which the Mexican Government would publish immediately, I suggested that this might seriously interfere with the working out of a more friendly spirit, and said that I hoped the answer might be delayed, and when sent would be couched in such terms as would not preclude further friendly negotiations, and to this he seemed agreeable. He said that he hoped and believed that President Wilson had no knowledge of the note at the time it was sent.

I then turned the conversation into less contentious channels, reiterated my sincere desire to carry out President Wilson's ideas, and stated that I would largely rely upon his friendly advice and assistance in the matter. He said that he would be very glad to cooperate in every way possible, and after some further conversation along these lines, I took my leave.

My personal relations with President Carranza are of the most friendly sort and my interviews with him are invariably pleasant and agreeable. This conference was especially so, and he was distinctly pleased and gratified to receive the message I delivered to him.

Upon my return, I telegraphed to the Department the substance of this conversation and recommended that the announcement be made immediately of the adoption of a more liberal export embargo policy, and made certain suggestions as to what this announcement might contain. . . .

There are a number of difficulties in the way of the smooth and successful working out of the President's plan to gain the good will and friendship of Mexico. I think it would be advantageous and

advisable if I could have a personal conference with the Department on the whole matter, and I so suggested in a telegram yesterday. In my talk with President Carranza I intimated that I might conclude to run up to Washington for a conference, and he said he thought it would be a good idea. I told him that I feared my going away at this time might be misconstrued, and he stated that he would be very glad to take steps to see that a wrong and harmful construction would not be put on my journey.

The statement which the Department issued on June 29, on the subject of the consistency of the President's speech and the petroleum note, was published here by all the papers except *El Demócrata* and *El Pueblo* yesterday.

I have [etc.]

HENRY P. FLETCHER

File No. 710.11/374

The Salvadoran Chargé (Reyes Guerra) to the Secretary of State

[Translation]

WASHINGTON, July 18, 1918.

MOST EXCELLENT SIR: In compliance with instructions from my Government I have the honor to forward herewith to your excellency an autographed letter of the President of Salvador to His Excellency Woodrow Wilson, President of the United States of North America, and beg your excellency to be so good as to forward it to its high destination.

I enclose an office copy of the said letter for your excellency's perusal and thank you in advance [etc.]

ANTONIO REYES GUERRA

[Enclosure—Translation]

President Meléndez to President Wilson

SAN SALVADOR, July 4, 1918.

MOST EXCELLENT SIR: The Central American press has just published the telegram from Washington to the Legations of the United States giving the text of your open-hearted and patriotic speech to the Mexican newspaper writers and publishers who recently visited the great Republic whose destinies you so wisely guide. And I can not resist the desire of sending you this letter which will bring you my most fervent congratulations offered in my private capacity and in that of ruler of the Salvadoran people on the abundance of doctrine encompassed in that notable piece of oratory in which with truly apostolic eloquence you have shown the way to that political harmony that is to cement the peace and future welfare of the American nations.

From the height of your labors for the good of your people and of all mankind you have poured a limpid stream of sentiments and principles which washes out every speck of misconception or mistrust as to the attitude of the United States in her relations with Latin American. And in this sense, Most Excellent Sir, you have accomplished the most transcendental and patriotic achievement, because dispelling mistrust and doubt in the interpretation of the rights of the peoples is promoting in the most effective way their harmony and the stability of their peaceful intercourse so that they may more easily realize their destinies.

"Peace," you have said, "can come only by trust. As long as there is suspicion there is going to be misunderstanding. As long as there is misunderstanding there is going to be trouble." This is a great truth of which every day has brought the most distressing confirmation, and your words, marked by simple honesty and sincerity, having instilled trust into the heart of America,

it is but justice to look upon you as a true apostle of peace and a broadminded statesman in whose judgment those others who also long for the firm maintenance of international concord must have faith.

As the ruler of the Salvadoran people, as a citizen of Latin America, I wish to express to you my firm adhesion to the ideas of justice and sentiments of fraternity with which your speech to the Mexican journalists is replete.

In expounding the Monroe doctrine you have dispelled prejudices and unfavorable conjectures that have for many years hampered the full blossoming and propagation of principles of true cordiality which must, for the common good, exist between the United States and the other Republics of the American Continent.

Your great conception of an international convention that would guarantee the political independence and territorial integrity of the nations of this hemisphere carries the highest purpose that has struck the chords of American public law from the days of Washington to our time. You would indeed be the great paladin of law and liberty in America if you would follow up your momentous initiative which without a doubt will receive the support of the greatest sympathy and best will of all the statesmen and rulers of our continent who, like you, Excellent Sir, are convinced that conventions of that nature are the foundation upon which to build the future life of nations, after the present war.

I wish to improve this opportunity to say, in the name of my people and of the Government over which I preside, that all the motives of our political life, with special regard to the maintenance of our international relations, have sprung from the purest sentiments of justice and cordiality, from an endeavor to uphold, within the forms of self-respect our national entity so as to be always in position to take an able and conscientious part in any civilized evolution which tends to bring closer union and prosperity of the American States.

In this aspect it is proper to hold forth our enthusiastic approval of the ideas and purposes manifested by Your Excellency in your recent speech; and I believe I am in accord with the opinion and sentiment of the other peoples and Governments of Latin America when I make the prediction that all would sincerely rejoice in the consummation of the magnificent plan of the international convention conceived in a moment of lofty and generous inspirations by the serene statesman, the upright man who guides the mightiest of the American democracies with such wisdom and prudence.

Permit me to tender to you, Most Excellent Sir, in the name of my fellow citizens and in my own, the strongest assurances of adhesion to your sound policy of mutual respect and cordiality, free of suspicion, inaugurated by your recent interpretation of the Monroe Doctrine and by the upright attitude you have set for your Government in its relations with the other peoples of the great family of our continent.

Count upon our determined cooperation in bringing to a tangible form your noble thought of securing by reciprocal trust and indissoluble bonds of law the peace of the nations; and be assured that if after the present world conflict the American States succeed in fortifying their future life on the strength of the international convention brought to view in the splendor of your ideals of justice, you will deserve to be regarded as a paladin of mankind and to have your name linked with that of George Washington in the respect of the world and the glorious verdict of history.

Accept, Most Excellent Sir, the assurances of my highest and most distinguished consideration.

C. MELÉNDEZ

File No. 711.12/132

The Consul at Vera Cruz (Stewart) to the Secretary of State

No. 1922

VERA CRUZ, July 26, 1918.

SIR: I have the honor to transmit herewith an editorial, with translation, on President Wilson, published on July 25 in *Los Sucesos* of Vera Cruz, which is the best appreciation of Mr. Wilson's policy by a Mexican that I have ever seen published in a Vera Cruz paper.

I am confidentially informed that "Renato" is the pseudonym of the local postmaster.

I have [etc.]

FRANCIS R. STEWART

[Enclosure—Translation]

Editorial from "Los Sucesos", Vera Cruz, July 25, 1918

WOODROW WILSON

In a world-wide investigation through the medium of the auxiliary language, Esperanto, a Dutch friend asked us not long ago who, in our opinion, was the greatest contemporary figure, and without any hesitation we answered, "Woodrow Wilson!" And in our judgment this man of rare virtues is one who merits this opinion on our part, since he is one of the most discussed, most admired, and most misunderstood personalities. Wilson is a revolutionist who, without boasting of it, has put into practice many of the theories which are opposed to the routine of the politics of spoliation. With a few strokes of the pen we shall mention some of his best-known deeds which taken together show his exalted views.

In the moments of most importance for our democratic future, Wilson, in an impulse of just indignation caused by the cowardly assassinations of Huerta, and putting aside diplomatic conventionalism and compromises, solemnly promised never to recognize that government born of crime and perfidy. That at first sight does not appear to be a thing of significance, but analyzing it in detail, we see that a large share of civil valor is needed to face the cruel satires of the paid press and appear isolated in the concert of European rulers that almost *ipso facto* pressed the hand of the *cher et grand ami* which was still wet with blood. How much abuse Wilson endured on the part of the imperialists of his own country and the European lambs of Panurge! Mad, stupid, and even criminal, they would not say he was less. There was no peace in Mexico because of him. Huerta did not change this into a paradise because of him. Brigandage increased because of him.

At first Huerta made light of the non-recognition on the part of Wilson, but when, for lack of that requisite, his loan in Europe was a failure, his salaried press, that vainglorious press, or, rather, our press without shame, vomited abuse against the American President. He was declared the putative father of the "bandit traitor," Carranza, who had sold his country—oh, misguided and betrayed country!—and Huerta was declared a Huitzilopochtli (God of War) with dark glasses who was saving it from the hands of the Gringos.

The revolutionists could not strengthen themselves in towns of importance, because the "30-30's" were powerless against the artillery. Then Wilson agreed to the raising of the embargo on arms on the frontier and the first cannon, which we might call Liberty cannon, could pass. The two opposing armies were now fighting hand to hand.

Huerta, powerless then to check the pressure of the revolution, in one of his drunken carousals conceived the diabolical idea of provoking war with the United States to arouse an excess of patriotism on our part and of throwing himself into a fraternal embrace with the First Chief. As an immediate result came the occupation of Vera Cruz, which was not with the idea of conquest, as was proven by the fact that the city was delivered to the First Chief without the collection of a single cent and without the exaction even of the famous salute to the flag of the Stars and Stripes.

Then came the Villista schism, and Wilson, in his rôle as friend of the Mexican people, in order to recognize some one of the factions in the dispute, appealed to a kind of plebiscite, which showed that Constitutionalism was the only one which had cohesion and discipline, and recognized that party as the *de facto* Government.

Villa, enraged like Huerta, tried in his turn to provoke a conflict. He held up a train in Chihuahua, forced 16 unarmed Americans to alight, and with an inconceivable cannibalism, assassinated them in cold blood. In spite of the terrible excitement of his people, Wilson remained calm, trusted in the First Chief, and was satisfied with asking the punishment of those who were guilty.

This plan having failed, Villa tried another. He went to Columbus to burn, assassinate, and sack. The situation became unbearable for Wilson, who saw himself unavoidably obliged, now that he was the "bandit-protector," to send

the Pershing expedition, not to do what Villa had done, but to pursue the malefactor, their common enemy and ours. New calumnies and stories of conquest. New verbal explosions of exaggerated patriotism. All that Wilson had done for the revolution was forgotten and there remained only the time-worn prejudice of the frontiers which was not even applicable to the case, especially as the peaceful withdrawal of the forces, without taking an inch of territory, proved the good faith of the misunderstood idealist.

They sink the *Lusitania* to the great admiration of the "Mauserophiles," and there are new showers of censure against Wilson for the notes in which, as a pacifist at heart, like all men who have reached a certain state of ethic perfection, he protested against the marine-Zapatista attack.

And finally comes the *ukase* from Potsdam forbidding the United States to have maritime traffic with Europe, and at this imprudent and mad challenge Wilson, the pacifist, takes up the gauntlet. Universal laughter! Our "Mauserophiles" split their sides with laughter. Any of our exaggerated patriots considered himself alone capable of devouring Wilson and his ungainly soldiers. Wilson against William, King and Emperor, was a joke. All the moving quixotism looked with compassion on the poor "schoolmaster." In Potsdam, as was natural, those Olympic lords of the "super-advance" did not even take the trouble to mark Pershing on the map of the theater of the war.

But to-day the facts, the overwhelming facts, are opening the eyes of those who were accustomed to scorn. The American Army has become formidable and its force, combined with the rest, is making the supreme priests of Mars retreat.

And yet Wilson, the much discussed, the admirable and the misunderstood, will come to figure in the firmament of liberty of the peoples as a star of the first magnitude. And the German people themselves, to-day under the boots of the Prussian Junkers, will be the first to recognize later the honorable influence of Wilson for universal fraternity.

Wilson has been our friend. Let us in our turn be his loyal friends. Away with those fables of absorption, when this war which costs the world so dear is being fought precisely to finish with the delirium of conquest on the part of dangerous lunatics! Let us change our policy of hostility towards the American people and let us broaden a little our purely Apostolic Roman judgment with incrustations of the doctrines of Robespierre. Only thus can we prevent the Phrygian cap from sinking down to our necks.

RENATO

File No. 710.11/375

The Acting Secretary of State to the Minister in Salvador (Long)

[Telegram]

WASHINGTON, July 31, 1918, 5 p. m.

You are instructed to convey to President Meléndez the following message transmitted to him through the Department of State by President Wilson:

Your Excellency's very generous letter of the 4th of July has just been placed in my hands and I am availing myself of the earliest opportunity of expressing to you the very deep appreciation with which it was received and read. It is delightful to feel that a mutual understanding is being established among the nations of the Americas which promises to constitute a genuine and permanent foundation of friendship, and I beg Your Excellency to believe that the speech to the Mexican editors, to which you so kindly refer, came without premeditation from my very heart. I wish you also to know that it expressed something very much more than my own personal feeling and policy, for I believe that it expressed the real attitude of the people of the United States and the policy which they would always wish to see their Government adopt and pursue. I join with you in looking forward with the highest hope and confidence to such a union of minds and purpose in America as will lead to abiding peace and friendly cooperation.

POLK

**NEGOTIATIONS FOR CLOSER COMMERCIAL RELATIONS WITH
MEXICO**

File No. 612.119/982

*The Mexican Undersecretary of State for Foreign Affairs (Pérez)
to the Secretary of State*

[Translation]

MEXICO, November 30, 1917.

Most EXCELLENT MR. SECRETARY: I have the honor to inform your excellency that Señor Don Venustiano Carranza, Constitutional President of the United Mexican States, desirous of maintaining and promoting the commercial relations of the two countries, has seen fit to appoint as a special commissioner, Señor Lic. Don Luis Cabrera to conduct jointly with the Ambassador of Mexico accredited to your Government the negotiations for the rescission of the restrictive measures ordered in the matter of foreign trade by your excellency's Government, as affecting this Republic.

Begging your excellency kindly to extend to Señor Lic. Cabrera a favorable reception and to give him your valuable support for the better fulfilment of his mission, placing full faith and credit in whatever he may say in the name of the Government of Mexico, I take [etc.]

E. GARZA PÉREZ

File No. 612.119/644

The Chargé in Mexico (Summerlin) to the Secretary of State

[Telegram]

MEXICO, December 28, 1917, 3 p. m.

652. *El Universal* recently has claimed repeatedly that the Mexican food commission sent to the United States failed utterly; that no corn is being shipped to Mexico. Although this denied by other local papers, public appears to be in doubt as to the real situation.

SUMMERLIN

File No. 612.119/708a

The Secretary of State to the Chargé in Mexico (Summerlin)

[Telegram]

WASHINGTON, January 3, 1918, 6 p. m.

676. Your No. 652, December 28, 3 p. m. You should make a statement to the press to the effect that when Mr. Cabrera and the Mexican Ambassador appeared at the State Department on December 8 they were informed that the Department was ready immediately to begin negotiations; that it subsequently transpired that Mr. Cabrera had left the United States for the Argentine Republic without mentioning the matter of the negotiations again to the Department. The American Ambassador in Mexico City was called to Washington to assist in reaching an expeditious and satisfactory arrangement between the two countries and informed the Mexican Ambassador on the 20th of December that the United States Government was ready to begin negotiations at once. He was informed by Ambassador Bonillas that he had received no instructions on the

subject, but that he would telegraph to President Carranza for such instructions. Up to the present the Department has received no intimation from the Mexican Embassy as to when negotiations may be commenced.

LANSING

File No. 612.119/697

The Chargé in Mexico (Summerlin) to the Secretary of State
[Telegram]

MEXICO, January 5, 1918, noon.

673. The statement contained in your telegram No. 676 was given to the press late yesterday afternoon and was printed in all of today's papers except the *Universal*.

Press comments on this announcement will be promptly telegraphed as they appear.

SUMMERLIN

File No. 612.119/706

The Chargé in Mexico (Summerlin) to the Secretary of State
[Telegram]

MEXICO, January 6, 1918, 1 p. m.

675. My telegram No. 673, January 5, 12 a. m. *El Universal* states to-day that Nieto, when asked the reason for the delay in sending Ambassador Bonillas instructions, replied that he could say nothing until he had conferred with President Carranza on the subject.

Mr. Carranza has been absent from the Capital for several days; was at Pachuca yesterday and is expected to return in a day or two.

SUMMERLIN

File No. 612.119/704

The Chargé in Mexico (Summerlin) to the Secretary of State
[Telegram]

MEXICO, January 6, 1918, 2 p. m.

676. Nieto has informed me that he will leave for the United States on the 10th instant, and I have been told in strict confidence by Lill that Pani expects to follow a few days later and will be empowered to participate in the pending negotiations. I understand, however, that these plans were made several days ago and are subject to further reference to President Carranza for final approval.

SUMMERLIN

File No. 612.119/705

The Chargé in Mexico (Summerlin) to the Secretary of State
[Telegram]

MEXICO, January 6, 1918, 9 p. m.

677. My telegram No. 676, January 6, 2 p. m. Acting Minister for Foreign Affairs informed me this afternoon that one of the

objects of Nieto's proposed visit to the United States is in connection with the pending conference.

SUMMERLIN

File No. 612.119/958

The Ambassador in Mexico (Fletcher) to the Secretary of State

[Telegram]

MEXICO, February 26, 1918, noon.

807. Negotiations which were to have been resumed with Nieto to-day at 4 o'clock have been postponed until after Cabinet meeting to be held Thursday afternoon. Alvarado is here.

FLETCHER

File No. 612.119/993

The Ambassador in Mexico (Fletcher) to the Secretary of State

[Telegram]

MEXICO, March 1, 1918, 2 p. m.

815. My No. 807, February 26, noon. Nieto, after Cabinet meeting yesterday, telephoned me that Minister of Foreign Affairs would speak with me as to negotiations. I learn unofficially Cabinet did not approve Nieto's conduct of the negotiations. Apparently there is a misunderstanding which I shall try to remove when matter is taken up with Minister for Foreign Affairs.

FLETCHER

File No. 612.119/1008

The Ambassador in Mexico (Fletcher) to the Secretary of State

[Telegram]

MEXICO, March 4, 1918, 5 p. m.

822. Referring to my telegrams Nos. 807, February 26, 12 a. m., and 815, March 1, 2 p. m., on the subject of the pending negotiations I have not seen Nieto since our return. When I talked with him on the telephone he said Aguilar would continue negotiations; when I asked him what impression he had after the close of the Cabinet meeting he replied that it was somewhat pessimistic. When I called on Aguilar on Friday afternoon on another matter, he said that the President had entrusted him with the continuance of the negotiations, and that Pani and Nieto would assist him in matters concerning their Departments. I told him I was ready to resume whenever they were. It was expected by both Nieto and myself that we would be able to close negotiations satisfactorily after arrival here, but it was soon apparent that Carranza had other intentions. I called upon Aguilar last Monday and said I would be glad to call on Carranza at his convenience. So far he has not indicated a time for me to come although he has received Douglas, my new French colleague, and others.

El Universal published this morning an article laudatory of Nieto and his successful negotiations, etc., in Washington, and Nieto imme-

diately wrote a note to the editor saying that praise of this character was susceptible to creating trouble and difficulties for him, and even of interfering with the unfinished negotiations because "the conditions of the present situation are very difficult and there possibly will exist radical differences of opinion as to the treatment of our international questions." He concluded by asking that *Universal* refrain from publishing any further news relating to his commission to the United States unless given out officially. This letter and the manner in which Mexican officials have acted with regard to these negotiations since my return, together with persistent reports to the effect that Mexican Government is contemplating adopting stronger line of action in dealing with the United States, incline me to believe that this Government either hopes to receive assistance from Germany as indicated in the Department's confidential telegram No. 799, February 26, 6 p. m.¹ or believes that United States is so engrossed and embarrassed by the Great War that substantial concessions in the matter of United States export restrictions, or possibly even financial assistance, can be secured from the United States by adopting dissatisfied attitude and perhaps threatening retaliatory embargo on oil, metals, and other exports to the United States.

Nevertheless when the negotiations are resumed I shall do my utmost to reach satisfactory arrangement and should then be able to develop more clearly the attitude and intentions of the Mexican Government. Department will be kept fully informed.

FLETCHER

File No. 612.119/1017

The Ambassador in Mexico (Fletcher) to the Secretary of State

[Telegram]

MEXICO, March 5, 1918, 1 p. m.

823. Continuing my confidential 822, March 4, 5 p. m.

Mexican Government has issued a formal statement which is published in all the papers this morning, stating that when a memorandum of the proposed Treasury arrangement for the exportation of gold (verbatim copy of which was left by me with Minister Lay) was submitted to the Cabinet, the President and the members of the Cabinet for grave and diverse reasons unanimously rejected it in every one of its clauses, and in order that the public might understand the terms of the project the memorandum is published in full. The statement goes on to say that notwithstanding the above, discussions will continue, the President deciding to handle them directly, having appointed a commission from the Cabinet to study the new propositions to be submitted to the American Government through American Ambassador by the Department for Foreign Affairs. The statement did not refer to food or any other part of the negotiations. This announcement is the first and only direct exposition I have received of the Mexican Government's position.

FLETCHER

¹ Not printed.

File No. 612.119/1076

The Ambassador in Mexico (Fletcher) to the Secretary of State

No. 819

MEXICO, March 6, 1918.

SIR: Amplifying my telegrams, the last of which was numbered 823, March 5, 1 p. m., on the subject of the negotiations between the United States and Mexican Governments with reference to reciprocal modification of export restrictions on foodstuffs, gold, etc., which were transferred from Washington to Mexico City, I have the honor to enclose a translation of the formal statement given to the press yesterday by the Secretary of Government, Mr. Aguirre Berlanga, to the effect that the Mexican Government disapproved the tentative arrangement concerted by Messrs. Bonillas and Nieto with Messrs. Rowe and Strauss of the United States Treasury Department and myself with respect to gold exports from the United States to Mexico. I also enclose translation of a news dispatch published in the *Universal*, praising Mr. Nieto for the successful discharge of his commission in the United States, as well as an inspired editorial in the *Pueblo*—the Government organ—attacking the *Universal* for publishing a dispatch of this kind and generally for that paper's friendly attitude towards the United States.¹

Mr. Nieto, smarting under the rebuff and criticism of the statement given out yesterday by Aguirre Berlanga, to-day publishes in full the report he submitted to the President of his negotiations in the United States, translation of which I also enclose. Mr. Nieto's report contains a correct statement of the progress of our negotiations, and his reasons for recommending the gold export arrangement tentatively agreed upon.

It was very evident soon after our arrival in Mexico—on the 23d of February—that Nieto's handling of the negotiations did not meet with the approval of President Carranza and his Cabinet—especially Aguirre Berlanga and Pani—who have done everything possible to discredit Nieto and Bonillas and force the former to resign as Sub-secretary of the Treasury. In fact, the publication of the various articles enclosed is due largely to this internal political quarrel. Rumors of Nieto's resignation have been current for the past ten days and the *Democrata* to-day openly calls upon him to resign.

I had no official knowledge as to how the Mexican Government regarded the negotiations. The Minister for Foreign Affairs, General Aguilar, informed me, after the meeting of the Cabinet last Thursday (February 28), that he would continue the negotiations with me, but did not indicate in any way the Mexican Government's position on any point, and the publication yesterday of the rejection of the tentative gold arrangement was the first knowledge I had on the subject.

I called on President Carranza this morning and went over the main points of the negotiations. He said he had named a committee of the Cabinet, headed by Aguilar, to continue the negotiations and that he expected that I would receive their propositions in writing to-morrow or the next day, and that he would prefer future negotiations be carried on in writing although, of course, personal confer-

¹ Neither printed.

ences between the Mexican commissioners and myself and McCarty, representing the Food Administration and the War Trade Board, would be advisable and necessary. He referred to our gold export restrictions as hampering Mexico and said he could not understand why Mexico could not receive in gold her ordinary trade balances in the United States; that Mexico sent practically everything she produced to the United States and that she was not permitted to receive in exchange either goods, food, or gold; that unless Mexico could receive the things she needed and the balance in gold in exchange, it seemed hardly worth while to continue exportation; and that if the restrictions on exports of machinery, food, and the other articles which Mexico could not now procure were removed, there would be little demand for gold as there would be little, if any, trade balance in favor of Mexico. In reply I told him that while I could not speak definitely on this subject, which was one entirely in the hands of our Treasury Department experts, I felt sure we could reach a satisfactory arrangement as to trade balances, but that the great bulk of the gold for which Mexico is now asking export license is in the shape of credits transferred from England resulting from the liquidation of Pearson's Tehuantepec contract, and is not properly speaking an American transaction, and I explained that England and all our other Allies and most neutrals had entered into credit arrangements with us which had obviated the necessity of gold transfers. I also fully explained to him the Food Administration's position as to the price of henequen attempted to be fixed by the Comisión Reguladora, and I also referred to the labor shortage in the United States and the desirability of reaching an arrangement whereby Mexican laborers could cross the frontier; that this would relieve Mexico of the necessity of feeding these idle men and that proper guarantees would be given as to their non-enrollment in our Army. I also informed him that the labor and immigration authorities of the United States were disposed to relax the United States immigration restrictions as far as Mexicans were concerned. The President seemed well disposed on this subject. My statement I based on information received from Mr. McCarty. I respectfully request the Department to take this matter up with the proper Departments so that I may be in position to give definite assurances when we shall reach this point in the negotiations.

I have [etc.]

HENRY P. FLETCHER.

[Enclosure 1—Translation]

Statement to the Press by the Mexican Secretary of Gobernación (Berlanga)

MEXICO, March 5, 1918.

Since the initiation in Washington of the conversations relating to the exchange of foodstuffs and other merchandise between Mexico and the United States, the American press and some Mexican newspapers have been falsely informing the public regarding the course of the said conversations, and since their conclusion they have continued to assert that they were a success. As, unfortunately, such has not been the case, but on the contrary, upon the memorandum being submitted to the Cabinet for consideration, the President of the Republic and the members of the Cabinet for many grave reasons disapproved unanimously of each and all its clauses, and in order that the nation may be protected from such deceit and that all citizens may have knowledge of the proposed clauses, the memorandum of what has erroneously been called the Lansing-Nieto pact—since the former did not intervene in the matter to which this note refers—is now published. Notwithstanding the fore-

going, the negotiations are being continued in connection with the said exchange of products, for which purpose the President has decided to handle it directly, having appointed a commission from the body of the Cabinet to study the new propositions to be submitted to the American Government, which propositions shall in due time be presented to it by the Department for Foreign Affairs through that Government's Ambassador, his excellency Mr. Fletcher.

The text of the draft agreement referred to reads as follows:

MEMORANDUM OF AGREEMENT

As a result of the conferences held between Ambassador Fletcher, Assistant Secretary Rowe and Mr. Albert Strauss, representing the United States, and Ambassador Bonillas and Subsecretary Nieto, representing Mexico, the Mexican commissioners make the following suggestions:

1. The Mexican Government desires to be permitted to export from the United States \$10,000,000 in gold, out of the credits that the Mexican Government may have in its favor within the United States. This amount shall have as a main object to serve as a reserve of the Banco de la República Mexicana, which shall be open for business on April 1. The Banco de la República Mexicana will issue bank notes which will be receivable for all taxes or other Government charges.

2. The Government of Mexico will arrange with the Government of the United States so that when the \$10,000,000 of gold above referred to shall have been exported from the United States, any additional funds accumulating to the credit of the Mexican Government within the United States shall be dealt with by adopting an arrangement similar to that recently concluded between the United States and Argentina. Briefly, this arrangement provides for the deposit with the Federal reserve banks of amounts accumulating to the credit of the Governments, such amounts in the Federal reserve banks being treated by the Mexican bank as a part of its own reserve. In this way, the Banco de la República Mexicana will be placing itself in the same position as the Argentine Government has placed itself and as the banks in the United States are doing by treating credits with the Federal reserve banks as a part of their reserves. Against deposits to its credits with the Federal reserve banks by parties in the United States, the Mexican Government will deliver in Mexico notes of the Banco de la República Mexicana to the nominees of the parties making such deposits, at the rate of two pesos Mexican for one dollar United States.

3. In regard to credits so accumulated with the Federal reserve bank for the credit of the Mexican Government, and in excess of the \$10,000,000 to be exported as set forth above, the Mexican Government desires the assurance of the United States Government that no obstacles will be interposed to the export of the balance of such account in gold, after ratification of a treaty of peace ending the existing war.

Whenever the amount to the credit of the Mexican Government, under the arrangement outlined in paragraph 2, shall have reached a total of \$20,000,000, the Mexican Government reserves the right to discuss with the American Government an arrangement looking to licenses for the exportation of amounts in addition to those now agreed to out of any amounts that may thereafter accrue in excess of the \$20,000,000.

4. The Mexican Government will repeal the existing laws or decrees that compel the reimportation into Mexico of an amount of gold equivalent to the amount of gold contained in ores exported from Mexico, as well as the requirement which provides for the importation into Mexico of an amount of gold equivalent to 25 per cent of the gold value of any silver bullion exported in ores. The Mexican Government shall not make any distinction between the American money either in gold or bank notes; but the Mexican Government shall retain the right of receiving in payment of taxes only Mexican money or bank notes of the Banco de la República Mexicana. Should currency of the United States be accepted at any Mexican customhouses or Government offices, it shall be accepted at par less such moderate charge as will cover the estimated cost of shipping such currency to the Federal reserve bank at Dallas for credit of the Mexican Government.

5. Under this arrangement, it will be the policy of the United States to refuse all requests from private parties to export gold, and to deal only with the Mexican Government in respect of such exports.

6. The Government of Mexico represents to the Government of the United States that no gold is now permitted to be exported from Mexico, and that it will not permit such export except to the United States unless some urgent Government need should require such export, and then only for limited amounts.

7. The Mexican Government desires assurances that between now and April 1, the date on which the Banco de la República Mexicana will open for business, that it, the Mexican Government, will be permitted to export from the United States up to \$5,000,000 in gold, out of such credits as the Mexican Government may accumulate in the United States. The above assurances as to exports covers the total requirements of Mexico for the export of gold. In other words, the said total of \$5,000,000 covers all exportations, whether for Government account or for private individuals. It shall be understood that these \$5,000,000 are apart, and shall not be considered as included in the \$10,000,000 referred to in paragraph 1 of this memorandum.

[Enclosure 2—Translation]

Report of the Mexican Undersecretary of the Treasury (Nieto) as published in "El Universal," March 6, 1918

The instructions which, in very general terms, I received from the President relative to the elimination of the difficulties which have occurred in connection with our foreign trade with the United States, were in the sense that the American Government should grant the free exportation to Mexico of certain articles necessary in the economic life of the Republic, principally foodstuffs, machinery of all kinds, iron and steel manufactures, machinery and material for railways, articles for the operation of mines, copper, zinc, arms and cartridges. As regards the exportation of metallic gold from the United States to Mexico, it was considered equitable that the Government of the United States should permit the shipment to Mexico of gold sufficient to cover our commercial credit balance.

In exchange for the American Government acceding to these demands, the Mexican Government would continue to permit the unrestricted exportation of articles produced in Mexico for export.

Before initiating negotiations with the American Government, Mr. Bonillas and I amply discussed the possibility of making an arrangement on these bases; but in view of the information furnished by Mr. Bonillas regarding the conditions under which the American Government is handling such matters with other nations, allies and neutrals, we realized that a general and definite treaty on the basis of a free commercial exchange was, for the time being, practically impossible, and for this reason we decided to handle the question with the idea of postponing to a more propitious time, negotiations for a reciprocal commercial treaty, considering that, for the moment, all that could rationally be negotiated would be that the United States should permit the exportation to Mexico, for a short period of time and in fixed quantities specified beforehand, of the foodstuffs and other articles necessary to our economic existence.

The intention of Ambassador Bonillas and of the undersigned was that such an arrangement of a merely transitory and provisional nature should momentarily alleviate the existing difficulties, awaiting a better opportunity for discussing a treaty of reciprocity more ample and just. Therefore, and in general terms, we fixed with reference to food products, quantities which we considered sufficient until the new crops were gathered, and with regard to other articles, amounts sufficient for several months. As to metallic gold, we considered that the initial amount asked for would also cover for several months the amount of our commercial balance.

From information furnished by Ambassador Bonillas it was found that, on account of the requirements of the war, the United States could not dispose, in the matter of foodstuffs and other various articles requested by the Mexican Government, of even the quantities indispensable for its own needs; furthermore, it has practically resulted that the American Government has not granted to any country whatsoever, allied or neutral, the free exportation of food products or of any other article which they consider necessary for the war. In effect, not only neutral countries, but the allies of the United States as well, are under the necessity, with regard to the exportation of such merchandise, of fulfilling all the ordinary requirements; it is necessary that a license be

requested in each instance, which, after examination by the appropriate Department, is granted, denied, or modified.

Therefore, and bearing in mind that for the present it would be almost impossible for the Government of the United States to extend to Mexico in this respect better treatment than that given to its allies, Ambassador Bonillas and I considered proper to handle the problem in the provisional and transitory form to which I have referred. And we thought best to discuss the matter on this basis, bearing in mind, naturally, that the President and his Cabinet could, opportunely, reject, approve, or modify the results of our preliminary conversations.

In view of this, and as a result of the ideas exchanged in our first interview with the officials of the American Government, we presented two memoranda,¹ one relative to the exportation of gold, and the other referring to the exportation of food products, machinery, and other articles.

In our memorandum regarding gold we limited ourselves, by reason of certain pertinent considerations, to requesting for the time being, the shipment to Mexico of \$15,000,000 in metallic gold. In the said memorandum we did not specify any obligation on the part of the Government of Mexico, and in it we made special mention of the possibility that present difficulties for the importation of gold to the Republic might oblige the Government of Mexico to adopt certain defensive measures which, without being in the nature of reprisals, might result prejudicially for the United States; for example, in the case of the Mexican Government being constrained to put into effect certain restrictions in exports to the United States unless advance payment in metallic gold were made for the merchandise. We also called attention in the memorandum to the fact that the exportation of gold from Mexico is prohibited, and that the Government of Mexico would hold to its purpose of not releasing any of the metallic gold at its disposal, excepting in such cases as make it absolutely indispensable to ship metallic specie abroad as the only means of making certain payments.

Taking this memorandum as a basis, we initiated the discussion with Ambassador Fletcher and with the representatives of the Department of the Treasury. These officials emphasized the fact that the simple granting of a permit for the exportation of \$15,000,000 would not solve the problem because, in view of the difference in the value of imports and exports, the difficulties would in a short time commence again, adducing, further, that the United States is greatly interested, in benefit of both countries, in the stabilizing of the exchange rate.

The American commissioners thereupon proposed that, besides granting a permit for the exportation of the \$15,000,000, and for the purpose of avoiding new difficulties in the near future, an arrangement be made similar to that which had been concluded at about the same time between the Governments of Argentina and the United States. We agreed that they should present to us a memorandum of such an arrangement, including this last proposition, and for that purpose, they submitted for discussion a new memorandum. Although in this document it is stated that the proposals are made by the Mexican commissioners, it was, in reality, the result of the discussion, interpreted and drawn up by the commissioners of the American Government.

Ambassador Bonillas and I amply discussed this memorandum, proposing some modifications thereto, which were taken into consideration, the result of this discussion being a new memorandum which was also drawn up and submitted to us by the American commissioners. Ambassador Bonillas and I accepted, in principle, this last form of arrangement, subject, naturally, to the consideration of the President.

This project provides, speaking generally, that the American Government shall permit, at once, the shipment of \$15,000,000 in metallic gold, to Mexico; that the amounts in excess of this sum which may result to the credit of the Mexican Government in the United States shall be deposited in the Federal reserve banks in favor of the Government of Mexico; that the deposits which interested parties, who desire to do so, may make for account of the Mexican Government in the Federal reserve banks, shall be payable in the City of Mexico in bills of the new bank of emission, at the rate of two for one; that the said deposits shall not be withdrawn from the United States until the termination

¹ The two memoranda referred to were published in *El Universal*, as a single memorandum. See *post*, p. 612.

of the present war, the American Government being obligated to permit the shipment to Mexico in metallic gold of the balance which, upon the conclusion of peace, may result to the credit of the Government of Mexico; that upon the said deposits exceeding \$20,000,000, new arrangements will be made with a view to exporting at once to Mexico further sums in metal; that the Government of Mexico shall make no distinction between the metallic dollar and the paper dollar, but without any obligation to accept this money in any class of payments; that the decree of September 27, last year, shall be canceled, wherein the provision is made for the reimportation to Mexico of a certain percentage of exports of silver and other metals; and, lastly, that exports of metallic gold shall not be made to other countries, excepting in cases of absolute necessity for the Mexican Government.

In my opinion, this project of an arrangement is even more advantageous for Mexico than is the agreement which Argentina has entered into with the American Government.

In effect, Mexico can import at once \$15,000,000, while for the present no metallic gold shall be shipped to Argentina. The Argentine Government shall leave on deposit in the Federal reserve banks until the termination of the war, \$40,000,000, while the amount fixed for Mexico is only \$20,000,000. Furthermore, the contract with Argentina provides that, if the amount of \$40,000,000 is insufficient, it shall be increased, whereas the project discussed with the Mexican commissioners provides that if the deposit exceeds \$20,000,000, the immediate importation of further metallic sums to Mexico shall be discussed anew.

I desire to mention that, while the draft agreement between Mexico and the United States contains the cancelation of a decree by the Government of Mexico, the agreement made with Argentina provides for the issuance of a law by that Government.

In my opinion, the projected agreement, financially speaking, and considering the critical conditions existing in the world market, is to Mexico's interests. This arrangement would normalize, to the extent that the present difficult conditions will permit, the utilization of our foreign commercial credits with the United States, until the present crisis is terminated.

The only serious obligation on the part of the Mexican Government consists in the establishment of a gold deposit in the United States until the end of the war. This, in my opinion, and without losing sight of the existing abnormal conditions, can be objected to only from a point of view of desirability in connection with international policy, but I shall not discuss this point as it is without my jurisdiction. I do, however, desire to emphasize that, in my opinion, the dignity and decorum of Mexico would not suffer in the least in accepting such an arrangement, inasmuch as it would only be practically accepting the consequences of the present world crisis, as have Argentina and other nations; greater ills are avoided, and an endeavor is made to secure the greatest advantage possible out of conditions so difficult and abnormal.

Economically, the advantages to Mexico, while not as great as might be desired, are all that could reasonably be expected during the present world crisis. The stability in exchange, while primarily being advantageous to the United States, would indisputably avoid in Mexico the harm caused by variations in foreign exchange, and our export industries would obtain large benefits therefrom immediately.

As regards the condition that gold shall not be exported from Mexico to other countries, such prohibition has already existed for several years, and it is now more important than ever that Mexico should not release its metallic reserves.

The cancelation of the decree of September 27, last year, is also to Mexico's advantage, until such time as an agreement is made with the United States. As a matter of fact, during the few months the said law has been in force, it has been found that it is more beneficial than harmful to the large foreign companies, which have influence in the United States for obtaining permits to export gold, whereas it has resulted prejudicially to small mining industries, which do not enjoy such influence or have not the means of securing the permits required.

It might be argued that the United States is obligated to pay to Mexico, in gold, the amount of our commercial balance; but compliance with this objection could only be forced by Mexico by prohibiting the exportation of our products unless advance payment were made in metallic gold, and such a ruling would create serious international difficulties.

All nations who at present have a trade credit balance have accepted the situation frankly, and in all nations, debtor or creditor, the exportation of gold

is at present absolutely prohibited. Furthermore, we should take into account that in past years, during many decades, our foreign trade invariably showed a debit balance, and we never considered ourselves obligated to pay the difference in metallic gold, accepting thereby the consequences of a depreciation of our money.

I desire to state that in drawing up the memorandum referred to, certain matters were considered in the discussion which are of the exclusive competence of the Government with reference to its interior affairs; but these points were mentioned only for the purpose of elucidating the discussion. It is clear, therefore, that they should not be taken into consideration in drawing up an agreement in its final form.

From the start of the discussions relative to the shipment to Mexico of food products and other articles, the American commissioners gave preference to the discussion of the price of henequen, considering this point as decisive for the success of the negotiations. The American commissioners took the stand that the price of the said fiber had been increased inmoderately by artificial means. As Mr. Bonillas and I had no information regarding Yucatán matters, we sent for the agent of the Reguladora in New York, who informed us of the recent arrangement made between the American Government and the Reguladora de Henequén for the purchase and sale of this fiber, in which a price on the fiber was fixed at \$0.19 a pound at Gulf ports. We stated to the American commissioners that inasmuch as an agreement already existed on the subject, it should not be discussed anew; but they then informed us that the arrangement with the Reguladora had not been ratified by the Food Commission and that it had not even been brought to the attention of the Director, Mr. Hoover; that the agreement had not passed beyond Mr. Requa, a minor employee of the Department, and that, even though the said arrangement should be considered valid, the American Government would avail itself of the provision therein contained that the agreement would be subject to immediate cancelation merely by the notification of same given by one of the parties.

In view of this attitude of the American commissioners, and after discussion with the New York agent of the Reguladora, Mr. Bonillas and I decided to request the American commissioners to submit a definite proposition. This was made in a memorandum in which the request is made that the price of henequen be fixed in relation to the increase in the price of corn in the United States, taking as a comparison the present price with that of normal times. On this basis, and according to the American commissioners' statement, the price of henequen would be \$0.13.38 per pound. After Mr. Bonillas and I had discussed the matter with the Reguladora agent, we agreed that, with a view to facilitating negotiations, the price of henequen should be reduced to \$0.17½ per pound, this price being subject to the approval of the Reguladora, with the understanding that a satisfactory arrangement would be concluded relative to the shipment of food products and other articles to the remainder of the Republic, and the shipment would be permitted to Yucatán of the same amount of merchandise as was imported in normal times. The American commissioners made a new proposition fixing a price for the fiber of \$0.15, and agreeing to the shipment to Yucatán of merchandise in the same proportion as in normal times, with the exception of wheat and its derivatives and war material. They offered, furthermore, to encourage the consumption of henequen in the United States and abroad. Attention should be called to this last point, inasmuch as at present the American Government prohibits the exportation of henequen and articles manufactured therefrom, and this signifies a large decrease in the consumption of the article. The discussion remained at this point, to be continued later in the City of Mexico.

With regard to our proposition for the shipment of foodstuffs and other articles to Mexico nothing in reality was discussed other than matters relative to foodstuffs and railway materials. As regards foodstuffs, the American commission was in accord with permitting the shipment to Mexico of 3,000,000 bushels of corn, and as regards wheat and flour, they absolutely refused to allow shipments to be made, inasmuch as, according to their statement, they could dispose of only a part of these articles which they required for their own consumption. They offered, on the other hand, to permit the exportation of rice in the same quantity as requested of wheat and flour.

With regard to railway material, indicated in the list furnished us by the purchasing agent in New York, they consented, in general terms, to permit the exportation, with certain minor differences, but no definite decision was reached on this point.

The American commissioners did not reach a decision regarding the exportation of the remaining articles contained in our list, nor with regard to our request for the immediate and provisional exportation of corn and flour, awaiting the definite result of the conferences.

This was the status of the negotiations which were to be continued in Mexico City.

I desire to state that, in the course of the negotiations, no point of international policy was touched upon in the slightest degree.

I also desire to state that neither Ambassador Bonillas nor I gave out a single notice to the American press regarding the negotiations. The news published in the United States and transmitted to Mexico was furnished to the press of that country by officials of the said Government. I desire also to state that my information to the press of Mexico was limited to a statement that the negotiations had not been concluded, and that they would continue here; the other data published by the press of the Capital must have been taken from information given to the American press by officials of the American Government.

I never considered that my humble efforts, united to the valued assistance of Ambassador Bonillas, should be crowned with complete success; on the contrary, we both feared strongly that due to the difficult circumstances and the delicate problems of international policy involved, which might be affected by such an arrangement, our conversations might be variously judged, and considered unacceptable or deficient. In any case, and as I am far from possessing the slightest degree of *amour propre*, undesirable when our great problems of international policy are concerned, I desire only, in submitting this report to the President and to the Secretaries of State, that it be recognized beyond all question of doubt, that my only purpose, within the bounds of my limited abilities, has been the welfare of my country.

R. NIETO

MEXICO, February 28, 1918.

[Subenclosure—Translation]

MEMORANDUM

The restrictive measures imposed by the American Government in regard to the exportations of gold into Mexico, have produced and will continue producing grave injuries to economic interests of both countries.

Considering Mexico alone, the injuries it suffers can be summarized in the following manner:

1. The economic crisis suffered by Mexico during the last years has actually caused, among other things, a radical change in the monetary system and imposed upon the Government of Mexico the necessity of devising new systems for the development of which it is absolutely necessary to have in reserve certain amounts of cash, especially in gold, and these amounts can not be obtained in Mexico or any other country except the United States. The impossibility of importing this reserve is now the only obstacle to the realization of the plans formulated.

2. The financial agency which the Mexican Government has established at El Paso, Texas, has as its principal object the concentration of all funds normally collected in other offices dependent on the Mexican Government situated in the northern region of the Republic. The amounts thus concentrated have to be distributed directly among other offices in order to satisfy the continued and numerous needs of the civil as well as the military administrations. The cash remittances which the said office has to make to Mexico are only immediate reexportations of funds received from Mexico and do not in any way affect the bullion reserve in the United States, which fact was taken into consideration when imposing restrictive measures upon such exportations.

The prohibition of said shipments places the Mexican Government in the position of being unable to meet necessary demands, many times of urgent importance, and in many cases the impossibility of meeting such demands may be of transcendental importance in the pacification of the country and in the complete establishment of normal administration.

3. The high value of silver has resulted in silver coin pesos being accumulated and gradually withdrawn from circulation. The Mexican Government has a reserve of this species of coin, and it is natural that it

should exchange them for gold which would be used in the new coinage. As this exchange can only be made in the United States, all action of the Mexican Government is at a standstill on account of the restrictions which make it impossible for Mexico to import the gold which would be the result of this exchange. Consequently the silver peso coins referred to remain in Mexico without being employed in any way, which is most harmful, as one of the most serious difficulties of the situation arises from the scarcity of currency.

On the other hand, the United States, besides inevitably suffering through reflection the effects of any serious economic conditions in Mexico on account of the close ties of interests between the two countries, have been resenting the effects of a situation which they have created through their own restrictive measures, especially the depreciation of American paper money which is a primary result of the difficulty existing in Mexico of exchanging these bills for gold. The removal of the obstacles which now impede the shipments of gold into Mexico would bring as an immediate result the new valuation of American paper money.

The difficult situation confronting the Mexican Government on account of the impossibility of obtaining gold from the United States might cause it to adopt certain defensive measures which in no way would be considered as reprisals, but would be prejudicial to private interests of the United States. For example, the Mexican Government might be obliged by the circumstances to make effective certain restrictions on the exportation to the United States of silver and several other articles, unless the full value were received in advance and in gold coin. This measure, which would be of great detriment not only to American but also to Mexican interests, would nevertheless be less harmful for Mexico than the present impossibility of obtaining the gold to which it has a legitimate right as the price for the articles it exports.

In view of the above-named reasons, it seems evident that the restrictive measures relating to the exportation of gold to Mexico should be modified. This arrangement seems quite clear, since it should be noted that if the interchange of metals is reestablished freely, the quantity of bullion exported from Mexico to the United States would be greater than that which the United States could send into Mexico. This statement is clearly proven by data taken from the statistics of former years.

The Government of Mexico, precisely on account of the abnormal conditions which confront it, could not make excessive use of the facilities it would be given to import bullion. The sum of \$10,000,000 would be really quite sufficient for the present to cover its needs in gold.

With reference to the exportations which would be made through the financial agency in El Paso, Tex., the peculiar character of which has already been explained, they would be increased in the next five months to the sum of \$5,000,000; that is to say, at the rate of \$1,000,000 a month.

Since one of the scruples of the United States concerning the exportation of gold is based on the fear that these shipments would be reexported to other countries and eventually reach the Central Empires, it is necessary to explain here that the Mexican Government has no intention of getting rid of its gold reserve nor of allowing that now in the Republic to be taken out, except in cases in which, due to difficulties caused by the world crisis, the only means of making certain payments would be the shipment of specie abroad. It is to be presumed, on the other hand, that such payments would not involve shipments of great importance, if it is taken into consideration that due to the same crisis which exists in the country, neither the Government nor individuals are in condition to enter into transactions which would mean large expenditures for them.

From the point of view of international commerce, one of the effects that the war has produced in Mexico is the isolation in which she has remained as regards Europe, and it can be assured that at present the only possible market, for exportation as well as for importation, is that of the United States.

In the first period of the war, that is, before the United States entered into it, the disturbances in Mexico's foreign commerce were not very perceptibly felt, except those caused by the suspension of the export trade with Germany, which were suspended from the very beginning of the conflict. Those exportations were principally coffee, tobacco, dyewoods, zacatón root, etc. After the United States entered the war, these commercial disturbances were extremely intensified, not so much as concerns the exportation trade, for this has been

carried on without interruption on account of the remarkably liberal customs policy which the Mexican Government has followed, but concerning the importations from the United States which have been reduced in a very notable way, as a consequence of the restrictions imposed by the recent American legislation on exports to Mexico.

Mexico has continued sending to the United States, without limitations of any kind, commodities which are very important for war purposes, such as oil and its derivatives, all kinds of metals, especially copper, zinc, and antimony, and several minerals very much required for manufacturing articles for war uses, henequen, rubber, guayule, hides, cattle, sheep, etc. All these exportations are carried on at the present time without any restriction, so far as quantity is concerned, and if some modifications have been made to the corresponding duty tariffs, they are merely from a fiscal point of view and not as a measure for restriction. Concerning cattle, for example, which is of indisputable importance in the southern states of that country, the changes made on the export taxes have not signified increase of any kind, as it can be assured that the taxes now paid are the same as those which have been paid for the last three years.

The United States, on the contrary, have restricted, and even more, have forbidden altogether in some cases, the exportation into Mexico of certain commodities which, if they were always very necessary, are still more so now under the present circumstances, as the effects of the economic crisis through which the country has recently passed are still being felt. Among these commodities, the first one is corn, which is very little used in the United States, while in Mexico it is of urgent necessity, as it constitutes the principal food for farm laborers and the needy class of the cities. Also the United States Government has thought it convenient recently to place an extreme restriction on the exportation into Mexico of gold and silver, which are indispensable for the reestablishment of its normal economic life. As it seems that the intention of the American Government in decreeing such measures is to avoid all possible reexportation to the enemies' countries, we may say that in the case of Mexico such reexportations are from every point of view impracticable on account of the paralysis of trade, not only with the Central powers, but also with the neutral countries of Europe through whom merchandise could be reexported.

As there does not exist, therefore, any effective restriction on the part of Mexico for exportations into the United States, of those commodities which are of vital importance in these present times, and there being on the other hand, on the part of the United States Government, a great number of limitations and even prohibitions to export into Mexico many commodities which, while not needed for war purposes in the United States, are absolutely needed by the inhabitants of the Republic of Mexico, even for its Government, and which will serve only to satisfy internal and many times pressing needs, it becomes convenient for both Governments to come to some reciprocal agreement based on the good and friendly relations existing between them, and also in order to establish equity in customs relations.

The principal points of such an agreement would consist, on the one hand, of the United States modifying certain export restrictions as regards Mexico and, on the other hand, of the Mexican Government agreeing not to alter its liberal tendencies in the actual custom policy, as regards exportation into the United States of such Mexican articles which are necessary for private concerns of the United States or its Government.

The suggested agreement, of which the matters of form, extent, and time will be discussed during the negotiations, in conformity with mutual interests, could be developed along the following lines:

I

The United States Government will permit the exportation into Mexico of the following articles, subject to the requirements agreed upon during the negotiations:

Corn. (It is calculated that before the next crop is picked, about three million bushels will be needed in Mexico. For the State of Yucatán special arrangements will have to be made.)

Wheat. (Three thousand tons are required for a period of four months.)

Wheat flour. (Five thousand tons in the same period.)

Cotton fiber. (Five hundred tons are needed.)

Cotton seed. (Five hundred tons are needed.)

All kinds of machinery, especially agricultural and mining machinery. (For these kinds of machinery it must be taken into consideration that its importation into Mexico is indispensable for the production of metals and other articles which are considerably exported into the United States. As to the quantity, it can not be calculated beforehand, but the Mexican Government will take care of examining and approving or disapproving each of the applications made by private importers.)

Electrolytic copper in wire and cable for private industries and the Government. (Five hundred tons will be needed.)

Articles manufactured of iron and steel. (The same observation as made for ordinary machinery.)

Machinery and railway materials, including that which is used for repairing locomotives and cars. (The same observation.)

Articles required for working the mines, especially cyanide, dynamite, capsules and fuse. (The same observation.)

Coke for the iron and steel foundries. (As to these commodities, it may be observed that their exportation into Mexico is indispensable for the production of iron and steel which is mostly exported to the United States. The quantity now required can be calculated at about twenty thousand tons.)

Arms already in stock in the United States and which may not be used by the American Government. (These importations will only be made by the Government of Mexico. The quantity of arms desired to import, as soon as they can be had, will be twenty thousand.)

Cartridges. (The same observation as for arms. The quantity now required is ten millions.)

Zinc in bars or plates. (It is calculated that one thousand tons need to be imported at present.)

Newspaper paper. (Five hundred tons will be needed.)

Soap. (It is calculated that two thousand tons will be needed for a period of six months.)

Jute sacks. (Three million sacks will be needed for the first harvests of wheat and corn.)

Ferromanganese. (Two thousand tons will be needed for the foundries of the country, the products of which are exported largely to the United States.

II

The Mexican Government, on its part, will permit exportation into the United States, of the following commodities during the time and in the form agreed in the negotiations, without increasing disproportionately the actual export duties:

Henequen and other fibers.

Metals.

Minerals (copper, zinc, lead, antimony).

Hides.

Oil and all its derivatives.

Rubber.

Guayule.

Cattle of all kinds and their products.

Woods of all kinds.

Dyewoods.

Zacatón root.

Chicle.

Other tropical products.

File No. 612.119/1038

The Ambassador in Mexico (Fletcher) to the Secretary of State

[Telegram]

MEXICO, March 8, 1918, 10 a. m.

828. The following note just received from the Minister for Foreign Affairs:

By order of the President of the Republic I have the honor to state to your excellency that the Government of Mexico considers unacceptable the result of the conversations which were held in Washington between Engineer Ignacio Bonillas, Ambassador of Mexico, and Mr. Rafael Nieto, Undersecretary of Treasury, and the officials of the American Government, for the purpose of normalizing trade intercourse between Mexico and the United States.

Having confidence, however, in your excellency's statement in our last interview that your excellency is well disposed to continue the negotiations on the subject, and with a view to reaching a satisfactory agreement, I am pleased to communicate to your excellency the basis which the Government of Mexico considers most equitable for arriving at a definite result and which make manifest once more the Mexican Government's disposition to discuss and agree to everything which may result to the benefit of both nations.

The Government of Mexico desires in the first place that the Government of the United States inspired by the principle of international reciprocity should permit the importation from the United States to Mexico of the merchandise its necessities require, in the same manner as the Government of Mexico permits the forwarding without restrictions to the United States of the greater part of its export products.

However, not desiring to impose any sacrifice on the United States, the Government of Mexico is agreeable that temporarily and transitorily quantities be fixed previously of the articles which may not exist in abundant quantities in the United States or of those which may be indispensables for its own requirements.

The articles of which the exportation from the United States is prohibited and which Mexico needs are the following: corn, wheat and wheat flour, cotton fiber, cottonseed, machinery of all kinds, iron and steel manufactures, machinery and material for railways, articles for the operation of mines, especially cyanide, dynamite caps and fuses, smelter coke, newsprint paper, common soap, jute sacks, barley, electrolytic copper in wire and cables, zinc ingots and sheets, ferromanganese, ammonia, and arms and war material for the army. The Government of Mexico desires further that the American Government shall permit towns on the boundary with the United States to import food products required for their own use, and lastly that permission be given for importation from the United States to Mexico of metallic gold in sufficient quantity to cover the commercial balances which may result in Mexico's favor.

Please await my 831.

FLETCHER

File No. 612.119/1040

The Ambassador in Mexico (Fletcher) to the Secretary of State

[Telegram]

MEXICO, March 8, 1918, 1 p. m.

831. Referring to my telegram No. 828, March 8, 11 a. m., does the Department wish me to renew negotiations here? My statements to the Minister for Foreign Affairs that I was disposed to continue negotiations was made before I knew Mexican Government had discovered [disapproved?] Bonillas' and Nieto's negotiations and referred to the continuance of the conversations I had had with the Mexican representatives in Washington.

It is evidently the intention of Carranza and his Cabinet to make these negotiations as formal as possible and to reduce everything in writing with a view to making a better paper case for Mexico rather than coming to a speedy and satisfactory arrangement.

From the nature of these negotiations, involving as they do reference to many different branches and agencies of our Government, it seems to me that they should be resumed in Washington. However, our experience in dealings with Carranza shows that he will not give his agents full power and that everything will have to be referred back here for his approval, but even so, if the Department wishes to reach a speedy and practical result, I believe the Mexican Government should be informed of our Government's willingness to continue negotiations in Washington in the most friendly and accommodating spirit with such representatives as he may appoint for the purpose. I could remain here to assist by personal explanation in any difficulties that might arise in the course of the negotiations.

Should the Department wish me to carry on the negotiations here, I can probably do so in a fairly satisfactory manner as far as the exports of food are concerned, as Mr. McCarty, representative of the Food Administration, will remain here if necessary for that purpose, but the handling of the details as to the other items which Mexico desires will be cumbersome and difficult by cable and it would seem that the matter of gold exports would almost necessarily have to be treated in Washington. I shall await your instruction before replying to the note from the Foreign Office above referred to.

FLETCHER

The Secretary of State to the Ambassador in Mexico (Fletcher)

[Telegram]

WASHINGTON, March 15, 1918, 8 p. m.

883. Your 828, March 8, 10 p. m. [a. m.] and 831, March 8, 1 p. m. The Department appreciates the disappointment you undoubtedly feel on account of the failure of ratification by Carranza of the negotiations carried on by you with Bonillas and Nieto in Washington. The attitude of Carranza is no doubt in part explained by reference to your 838¹ and Department's 799¹ and 848¹.

The Department believes that the attitude of the United States Government towards the renewal of these negotiations as suggested in the note of Mexican Minister for Foreign Affairs should be governed by the following considerations:

(1) The present situation is such that Department wishes you to remain in Mexico.

(2) Conference has been held with representatives of Federal Reserve Board, Treasury Department, War Trade Board, and Food Administration with the following results:

(a) Federal Reserve Board and Treasury Department believe that for the present at any rate there is no pressing necessity from their point of view why negotiations looking to adoption of plan for licensing shipments of gold from the United

¹ Not printed.

States to Mexico in sufficient quantity to cover commercial balances in Mexico's favor should be resumed. They propose to continue their policy of licensing certain shipments for benefit of mining industry, for payment of certain taxes in Mexico City by oil concerns, and for use of sisal organization, and of refusing other applications. A telegram is being prepared by Mr. Strauss of War Trade Board suggesting a means of reducing such licenses without injury to our interests. This will be submitted to you in the near future for your consideration as to its practicability. In the event it later seems necessary actively to resume financial negotiations, the Board and the Treasury Department believe that the proposals made by Carranza and wired by you to Department can be promptly considered here and decision communicated to you by wire so as to obviate necessity of sending to Mexico a financial expert to assist you. However, if the need arises such an expert will go to Mexico.

(b) The Food Administration is of course desirous of exporting from this country as little food as possible, and so is content to have these negotiations drag on indefinitely. However, if at any time this Department wishes the negotiations actively resumed the Food Administration will cooperate and is prepared to authorize McCarty to represent it and to assist you in every possible way. At the present time, a limited amount of food is being sent to mining companies and oil, sisal, and *istle* interests, and this will be continued.

(c) The War Trade Board is issuing licenses to Mexico on recommendation of Food Administration and this Department, and is prepared to cooperate in any way the Department suggests. With respect to newsprint paper, this Government is not willing to have paper purchased in this country used to assist a campaign of misrepresentation directed against the United States and the Allies, and accordingly paper will not be licensed except under guarantees satisfactory to you. With respect to arms and war material for the army, this Government is unwilling at this time to divert such material from its own troops and from the forces of the Allies for shipment into Mexico.

(d) The conference agreed that if negotiations were resumed they should be carried on in Mexico City, as much better headway could be made there than in Washington, for the reason that any decisions arrived at here would have to be referred ultimately to General Carranza who would perhaps be more likely to agree to proposals if the men carrying on the negotiations were near him to explain details. Of course, if negotiations are carried on in Mexico City, they should be carried on by you personally, assisted by such technical experts as you may see fit to consult.

(3) The Government of the United States, respecting as it does the property rights of Mexicans within the territorial boundaries of the United States, expects that the property rights of citizens of the United States within the territorial limits of Mexico will be protected by the Government of Mexico against injury and con-

fiscation. In particular, the Government of the United States would be unwilling to conclude with the Mexican Government any arrangement for mutual exchange of commodities which failed to recognize the just rights of Mexican owners of private property in the United States and by citizens of the United States in Mexico. In this connection, the Department is forwarding to you by telegraph its views concerning the legal features of the Mexican decree of February 19, 1918, taxing oil lands.¹ This Government cannot acquiesce in any action taken by the Mexican Government whereby legitimate vested American interests are appropriated by Mexico.

(4) Having in mind the foregoing, Department suggests that you should reply to the note of the Mexican Minister for Foreign Affairs expressing regret at the failure of the negotiations and stating that the renewal thereof is in the hands of the Mexican Government and that you always stand ready to communicate any message from that Government to the authorities at Washington. In other words, Department believes that while great care should be exercised to prevent the Mexican Government from making a paper case in favor of Mexico on the ground that apparently the United States Government has adopted an attitude unfriendly to principle of reciprocal exchange of commodities between the two countries, at the same time the Mexican people should not be permitted to labor under the delusion that a renewal of these negotiations is in any way vital to this Government, and accordingly your attitude should be that renewal of negotiations would be undertaken out of deference to wishes of Mexico and not on account of any particular necessity on the part of the United States.

(5) The above briefly summarizes the present views of the Department with respect to this matter. Realizing, however, that your knowledge of the situation is first hand, the Department does not wish to embarrass you by instructions. The situation you are confronted with is a difficult one. Enemy influence contending against your efforts is still powerful. The Department stands ready to give you every assistance in its power and if you advise that the negotiations should be actively resumed and energetically pushed by this Government, the Department is prepared to defer to your wishes and to use its influence with the other branches of this Government so as to meet your views. Please wire what procedure you advise.

LANSING

File No. 612.119/1100

The Ambassador in Mexico (Fletcher) to the Secretary of State

[Telegram]

MEXICO, March 18, 1918, 3 p. m.

874. Department's 883, March 15, 8 p. m. I have to-day replied to Foreign Office along lines indicated by the Department.

FLETCHER

¹ See telegram of March 19, post, p. 705.

File No. 612.119/1152

The Ambassador in Mexico (Fletcher) to the Secretary of State

No. 844

MEXICO, March 19, 1918.

SIR: With reference to my despatch No. 819 of March 6, forwarding Mr. Nieto's report to President Carranza of his negotiations in the United States, I have the honor to transmit, herewith, the text and translation of an editorial published by *El Pueblo*, the Government organ, outlining the reasons which justified President Carranza in refusing to approve Mr. Nieto's arrangement for gold exports.

I have [etc.]

HENRY P. FLETCHER

[Enclosure]

Summary of an editorial from "El Pueblo," March 14, 1918

The editorial states that it had not so far discussed the so-called Nieto agreement which was such a dismal failure, in order not to disturb the renewed discussions between Secretary for Foreign Affairs Aguilar and Ambassador Fletcher, but now it is forced to do so because of the attitude of a certain newspaper which eulogizes Nieto and promises to discuss his proposed arrangement. Before explaining the reasons for this malicious newspaper campaign, an outline is given of the reasons which justified President Carranza in refusing to sanction Nieto's arrangement.

The outline follows:

In Clause 1, the provision that the Bank of the Mexican Republic will issue bills to be received by the Government in payment of taxes and contributions is strictly of an internal and not of an international nature. "Is this an explanation, a mandate, or a condition?"

Clause 2 is the vital point in the question.

It makes us a financial agency of the United States; our bank, according to this, is an American institution, whose reserve funds are in the United States, and whose credit depends on the pleasure of the United States. The deposits, represented by our bills, are handled by foreign hands, and are dependent on the eventualities of our foreign affairs. These reserves are a credit in favor of Mexico—which will not see the actual money—and are funds in the possession of a distrustful and susceptible enemy who can apply them as an indemnity for any real or supposed damage, or for any other purpose.

Clause 3 condemns Mexico to a constant lack of metallic currency, which cannot be remedied until peace is ratified, and even this is subject to the course of events, because, as regards the excess over \$10,000,000, "the Mexican Government desires assurances that the United States Government will not place any difficulties in the way of its exportation." That is, the United States does not compromise itself in this respect, as the Mexican Government only desires that it be done, and the desires of one party to an agreement do not obligate the other party.

In exchange for these ten millions and the other five referred to in Clause 7, Mexico obligates herself to cancel laws which protect her metal production; Mexico can only import such gold from the United States as it pleases that Government to permit to be exported (Clause 5); and finally (Clause 6), the United States is assured that no gold exports will be made by Mexico and so reach the enemy.

Summing up: The project does not solve the problem and for fifteen millions belonging to Mexico which she is allowed to receive, Mexico is placed in a humiliating position.

Our bank is not our bank, but a branch which we are permitted to manage in an administrative way only, because its funds, which constitute its strength, are in the possession of the Federal reserve banks.

Mexico did not beg for anything. It is a question of a nation giving in exchange for what she obtains, and at present Mexico gives raw materials for the war to the Allies; that is, oil, henequen, metals, lumber, etc.

File No. 612.119/1138

The Secretary of State to the Ambassador in Mexico (Fletcher)

[Telegram]

WASHINGTON, March 21, 1918, 4 p. m.

901. The following has been prepared by Mr. Albert Strauss and has been approved by the Federal Reserve Board. You are requested to give it your immediate attention and to forward your reply by wire. In the event that your reply is favorable, the Federal Reserve Board proposes to bring about a meeting of the representatives of the various American mining interests in Mexico, in order to make arrangements for handling the gold requirements of all these companies through one consolidated agency.

In view of the breakdown of negotiations for a financial arrangement with Mexico, the Federal Reserve Board is seeking to devise some method to minimize exports of gold to Mexico. Will you telegraph: (1) Whether, in your opinion, an arrangement on following general lines is feasible? (2) Will you suggest any modifications or changes that seem desirable? (3) If the general plan, either with or without changes, is approved by you, will you telegraph whether some existing banking institution should be used or some individual be appointed by parties in interest, and (4) if former, indicate the institution. (5) Will such an arrangement lead to further oppressive decrees by the Mexican Government?

Mexican decrees requiring importation into Mexico of gold equivalent to gold exported in the form of bullion and equivalent to 25 per cent of the gold value of silver bullion exported probably calls for gold to be sent to Mexico in excess of the total requirements of American interests in Mexico for the payment of taxes, export duties, etc. Present policy of Federal Reserve Board permits export gold only for such importation requirements and for taxes and duties except in Tampico district where parties have apparently until now been able to provide themselves locally with gold at moderate premium. Mexican Petroleum Co. now represents that this will henceforth be impossible owing to prohibitive premiums.

As matters now stand, the exporters of gold and silver bullion undoubtedly receive from Federal Reserve Board for export to Mexico in compliance with importation decrees an amount of gold considerably in excess of their own requirements for taxes and duties and use that excess either in the payment of wages or else by buying New York exchange at a discount.

It has been suggested that American mining interests combine and employ joint agent in Mexico City to whom shall be consigned all gold for which licenses are granted in the United States, and that no licenses for the export of gold from the United States be permitted except to comply with the Mexican importation decrees above referred to with possible exception of small amounts for isolated points like Yucatan, Lower California, or Cananea. This would result in gold accumulating in the hands of the agent in Mexico City, which gold would in turn be paid out only on orders approved by Federal Reserve Board for such duties and taxes as that board may approve, which orders would be approved only for such American firms or companies as had made formal applications to the Federal Reserve Board and had received permission to avail themselves of these facilities.

LANSING

File No. 612.119/1151

The Ambassador in Mexico (Fletcher) to the Secretary of State

[Telegram]

MEXICO, March 27, 1918, 4 p. m.

909. Referring to my telegram 874, March 15, 7 p. m. [March 18, 3 p. m.], Minister for Foreign Affairs has replied stating that inas-

much as my note contained no decision regarding propositions outlined in his note quoted in my 828, March 8, 10 a. m., he asks me to state the view of the United States Government with regard to the general bases suggested by the Mexican Government for the maintenance of commercial intercourse between the two countries.

If the Department approves, I shall reply that my Government accepts in principle the bases mentioned in his note, but, due to the exigencies of the war, there are certain articles which for the time being the United States finds itself unable to export and still other articles which can be exported only in limited and specified quantities, and referring to the fourth paragraph of his note, I shall again offer to transmit to Washington any proposals or suggestions he may care to make, assuring him that my Government is and always has been well disposed to come to an arrangement providing for the fullest and freest commercial interchange possible under the circumstances. Please instruct.

FLETCHER

File No. 612.119/1183

The Ambassador in Mexico (Fletcher) to the Secretary of State

No. 868

MEXICO, March 27, 1918.

SIR: Referring to the recent telegrams exchanged between the Department and the Embassy on the subject of the suspended negotiations with the Mexican Government in regard to our export restrictions, I have the honor to enclose copy of my note to the Minister for Foreign Affairs dated March 18 last. This note is in reply to his note of the 6th instant, which was quoted in full to the Department in my telegram No. 828, and was drafted following the lines of the Department's telegram No. 883 of March 15, 7 p. m.

I also enclose copy and translation of the note from the Minister for Foreign Affairs dated March 26,¹ requesting me to state the views of my Government with regard to the general bases suggested by the Government of Mexico for the maintenance of commercial intercourse between the two countries, as set forth in his note of March 6.

In my telegram No. 909 of to-day's date, I have outlined to the Department for its approval, the reply which I propose to make.

I have [etc.]

HENRY P. FLETCHER

[Enclosure]

The American Ambassador (Fletcher) to the Mexican Secretary of State for Foreign Affairs (Aguilar)

No. 273

MEXICO, March 18, 1918.

I have the honor to acknowledge the receipt of your excellency's note No. 193 of the 6th instant, informing me that the Government of Mexico considers unacceptable the result of the conversations held in Washington between Mr. Ignacio Bonillas, Mexican Ambassador, and Mr. Rafael Nieto, Subsecretary of Hacienda, as commissioners of your excellency's Government, and the officials of my Government, which were designed to provide for as full and free commercial intercourse between our two countries as possible, under the existing war conditions.

¹ Not printed.

I have duly noted the contents of the note under acknowledgment, which outlines in general terms the desires of the Mexican Government in relation to exports from the United States, and I beg to confirm the statement made verbally to your excellency soon after my return to Mexico, to the effect that in this as in all other matters affecting the good and friendly relations of our two countries your excellency may count unreservedly upon my enthusiastic cooperation and service.

I would be very sorry to learn that the recent negotiations, which were conducted in the most friendly spirit, should prove entirely barren of result.

Whenever, therefore, your excellency's Government may desire to renew negotiations on this subject, I stand ready to communicate to my Government any message which the Mexican Government may see fit to give me in the premises.

Accept [etc.]

[File copy not signed]

File No. 612.119/1151

The Secretary of State to the Ambassador in Mexico (Fletcher)

[Telegram]

WASHINGTON, March 28, 1918, 7 p. m.

926. Department approves your proposed reply as outlined in your 909, March 27, 4 p. m. Of course you will have in mind subdivision (c) of paragraph 2 of Department's 883, March 15, 8 p. m.

LANSING

File No. 612.119/1235

The Ambassador in Mexico (Fletcher) to the Secretary of State

No. 889

MEXICO, April 3, 1918.

SIR: With reference to the Department's telegraphic instructions No. 926 of March 28, 7 p. m., and to previous correspondence regarding the negotiations between the United States and Mexico on the subject of commercial interchange, I have the honor to enclose herewith a copy of my note to the Foreign Office No. 289 of March 30, 1918, as outlined in my telegram No. 909 of March 27, 4 p. m.

I have [etc.]

HENRY P. FLETCHER

[Enclosure]

The American Ambassador (Fletcher) to the Mexican Secretary of State for Foreign Affairs (Aguilar)

No. 289

MEXICO, March 30, 1918.

EXCELLENCY: I have the honor to acknowledge the receipt of your excellency's note No. 269 of the 26th instant, in which your excellency, referring to my note of March 18 last as not containing any decision regarding the propositions outlined in the note of the Mexican Foreign Office dated the 6th instant, asks the views of my Government with regard to the general bases suggested by the Government of Mexico for the maintenance of commercial intercourse between the two countries.

In reply, I have the honor to inform your excellency that my Government accepts in principle the bases mentioned in your excellency's note of the 6th instant, but due to the exigencies of the war, there are certain articles mentioned in said note which for the time being the United States finds itself unable to export and still other articles which can be exported only in limited and specified quantities.

As your excellency has stated in the fourth paragraph of the note 193 of the 6th instant that "the Government of Mexico is agreeable that temporarily

and transitorily quantities be fixed previously of the articles which may not exist in abundant quantities in the United States or of those which may be indispensable for its own requirements," I beg to repeat that with respect to the articles enumerated in said note, I shall be glad to transmit to my Government any proposals or suggestions your excellency may desire to make.

Assuring your excellency that my Government is and always has been well disposed to come to an arrangement providing for the fullest and freest commercial intercourse between the United States and Mexico possible under the circumstances, I take this opportunity to renew [etc.]

HENRY P. FLETCHER

File No. 612.119/1265

The Ambassador in Mexico (Fletcher) to the Secretary of State

No. 902

MEXICO, April 10, 1918.

SIR: In continuation of my despatch No. 868 of March 27 last, on the subject of the United States-Mexican commercial negotiations, I have the honor to enclose copy and translation of a note from the Mexican Minister for Foreign Affairs dated the 6th instant to which is attached a list showing the articles and quantities which the Mexican Government desires to import freely from the United States.

Mr. George J. McCarty, representative of the Food Administration and of the War Trade Board, who returned to Mexico with me with the intention of assisting in the negotiations, left this morning for Washington where he should arrive about the end of the present month. Mr. McCarty felt that, in view of the delay and the turn the Mexican Government had given these negotiations, he could be more useful in Washington than here.

I have [etc.]

HENRY P. FLETCHER

[Enclosure 1—Translation]

The Mexican Secretary of State for Foreign Affairs (Aguilar) to the American Ambassador (Fletcher)

No. 294

MEXICO, April 6, 1918.

MR. AMBASSADOR: I have the honor to acknowledge the receipt of your excellency's note No. 289 of March 30 last, in which you inform me that the Government of the United States accepts in principle the general bases proposed by the Government of Mexico for commercial intercourse between the two countries.

In reply, I am pleased to state to your excellency that the Government of Mexico requests of the Government of the United States the free importation of the articles shown in the attached list, in the quantities shown therein, and has full confidence in that the Government of your excellency will comply with the wishes of the Government of Mexico in due reciprocity and in return for the free exportation of certain Mexican articles which are needed in the neighboring Republic of the North.

I avail [tc.]

C. AGUILAR

[Subenclosure—Translation]

List of articles Mexico desires to import

Corn-----	75,000 tons
Coke-----	20,000 tons
Ammonia-----	200 tons
Jute sacks-----	3,000 tons

Machinery of all kinds, especially agricultural and mining
Articles of iron and steel manufacture

Articles for the exploitation of mines, especially cyanide, dynamite, caps and fuse

(As regards the last three items, it is impossible to make a previous estimate of quantities, but the Government of Mexico would charge itself with examining and approving or disapproving as the case may demand, each and all applications for importations made by private parties.)

Machinery and materials for railways

(Quantities as shown in the attached list)

Newspaper paper	1,000 tons
Common soap	2,000 tons
Barley (grain)	4,000 tons
Electrolytic copper, in wire and cable	
Zinc in ingots and sheets	
Ferromanganese	

(As regards the last three items, the importation of only 10 per cent of the corresponding raw material which Mexico exports to the United States, would be required.)

Arms existing in the United States, of a type which has not been used by the American Government

20,000 arms

Cartridges

10,000,000

Metallic gold in bars and coin (It is requested that exportation be permitted of the commercial balance in Mexico's favor. The amount would be determined in the course of the negotiations.)

RAILWAYS

Hardware, car equipment, upholstery materials, files, wrenches	\$74,014.75
Lamps and accessories, tin articles, train material, Pintsch gas lighting equipment, packing	119,458.10
Nuts and screws, chains, cotter-pins, nails, rivets, washers	84,577.80
Pipe and accessories, valves, and various material for water service	89,864.60
Locomotive and car air-brake material, as per catalog of the Westinghouse Air Brake Co.	89,232.90
Copper bars and tubes or pipes, copper ferrules, injectors, safety valves, lubricators, manometers	106,597.50
Acids and chemical products, paints and varnishes	79,318.40
Structural steel, fire brick, steel for tools and springs, steel sheets, lead, bronze in sheets and ingots, corrugated tin and zinc roofing	538,701.40
Axles, crossbars, boiler tubes, wire netting, springs, tires, car wheels	313,103.00
Track screws and nails, handcars, wheelbarrows, switches, steam pumps, jacks, spades, track tools	150,876.30
Wooden cans, grease cups, hooks and car parts and accessories	2,522.65
Shop material, emery wheels	7,301.30
Transmission belting, glass, locomotive headlights, rubber tubing, wire and manila cable, furniture for cars and offices, leather, plumber's materials	320,736.50
Electrical instruments, telegraph and telephone accessories, batteries, copper sulphate, iron, copper and magnet wire, battery zincs	304,383.80
Turbine buckets	1,200.00
Sliding steel doors	2,580.00
Trunnion lathe	1,275.00
Trunnion lathe	473.00
Complete plant for manufacturing boiler tubes	120,000.00
Complete oxyacetylene plant	26,083.00
10,000 tons 75-pound rail	650,000.00
20 locomotives	1,200,000.00
10 sleeping cars	80,000.00
5 combination baggage and express cars	60,000.00
Complete car-wheel and locomotive foundry	125,000.00
General shop machinery, such as machines for boring, planing, etc	453,700.00

\$5,000,000.00

File No. 612.119/1256a

The Secretary of State to the Ambassador in Mexico (Fletcher)

[Telegram]

WASHINGTON, April 17, 1918, 7 p. m.

981. The following is sent you at the request of the Federal Reserve Board:

Referring to your telegram of March 22, 1918,¹ we fear that the matter was not made sufficiently clear. Since beginning of gold embargo to March 21 gold exports to Mexico apart from exports for account of the Mexican Government itself have been authorized to total of \$13,800,000, whereof \$6,740,000 was for the purpose of meeting reimportation requirements of Mexican Government, being the requirements that compel the reimportation of gold against the export of gold and silver bullion, and whereof \$7,060,000 was for taxes, export duties, etc., and other purposes.

The gold introduced into Mexico by reason of the import requirements remains free gold in the hands of the importer, and unless he requires it for the payment of taxes or duties or wages, he sells it, taking in payment exchange on New York on which transaction he makes a large profit. The purpose of the suggestion contained in previous telegram was to compel parties sending gold into Mexico under the reimportation decrees to use the surplus of such gold over their own requirements for taxes and duties for the benefit of American interests having taxes or duties to pay, but who, by the nature of their business, are not subject to the importation decrees. We estimate that since beginning of embargo gold exports for reimportation requirements would have about sufficed to take care of all requirements of American interests for taxes, export duties, etc., and the amount of gold exported for the latter purpose, some \$7,000,000 might have been saved.

In view of your telegram of March 22 setting forth the reasons why you consider our previous suggestions not feasible, we venture to inquire whether in your opinion that plan could be made workable by making shipments to a joint agent of the mining and smelting companies on the American side of the Mexican border, possibly the El Paso branch of the Federal Reserve Bank of Dallas. It would be the duty of that agent within the 30 or 60 days within which each bullion exporter is required to reimport gold to send into Mexico the proper amount of gold for account of each exporter. The gold once in Mexico, instead of being at the free disposal of the exporter, would, however, be applied to the payment of taxes and export duties of such parties as have such payments to make and as have through formal license granted by the Federal Reserve Board upon application become entitled to its use.

This plan would mean that the smelting interests would advance the money for the importation into Mexico of gold used for their reimportation requirements and would be reimbursed from time to time through payment in New York by the oil or other interests who have gold payments to make to the Government of Mexico but whose business does not require them to bring gold into Mexico. The oil interests would pay the smelting interests in New York and the gold sent into Mexico to satisfy the reimportation requirements of the smelters would be applied to the payment of the taxes of the oil interests. Of course, the smelters could apply and have their taxes paid in the same manner as the oil interests.

In the light of the above explanation, we should be glad once more to have your views on the plan as changed.

LANSING

File No. 612.119/1261

The Ambassador in Mexico (Fletcher) to the Secretary of State

[Telegram]

MEXICO, April 18, 1918, 2 p. m.

979. Plan outlined by Federal Reserve Board in your 981, April 17, 7 p. m., seems desirable and feasible and meets with my approval.

FLETCHER

¹ Not printed.

File No. 612.119/1787

The Secretary of State to the Ambassador in Mexico (Fletcher)

[Telegram]

WASHINGTON, July 6, 1918, 11 a. m.

1240. Your 1249 July 3, 11 a. m.¹ Department believes that decision respecting your suggested conference with Department should be deferred until after action has been taken pursuant to suggestion No. 3 made in Department's 1196.¹ You are, accordingly, authorized to make an appropriate announcement to the press using the facts stated in this telegram as a basis therefor, and you are requested to telegraph Department the text of statement and the time when you intend to issue it, eliminating reference to particular commodities mentioned. Upon receipt of this telegram, Department will make appropriate announcement an hour after your announcement in Mexico. The basis of this telegram is list attached to Foreign Office note No. 294, of April 6, 1918.

In order to give concrete expression to the friendly sentiments expressed in behalf of the Government of the United States by the President in his address on June 7 to the Mexican editors visiting this country,² the Department of State has arranged that export licenses will be freely granted, subject to the restrictions imposed by law, to wit, the United States Trading with the Enemy Act and the United States Enemy Trading List, for shipments to Mexico of the commodities enumerated below. In connection with this announcement, it should be pointed out that the United States Government has been compelled to conserve for its own use and for the use of the Governments associated with it in the war, certain commodities which normally would be permitted to be exported from this country to Mexico. By virtue of the efforts of the United States Government to stimulate production, the list of conserved articles is gradually becoming shorter. Here follows list of commodities for which export licenses will be forthcoming:

1. Corn, 1,500,000 bushels, approximately 30,000 tons between now and November. If purchases are in considerable quantities they should be made through United States Food Administration.

2. Coke will be licensed if drawn from certain specified districts.

3. Ammonia will be supplied to Mexico for ice-making, refrigerating, and foodstuffs, but not for beer-making; in other words, Mexico will be treated in exactly the same way as all other South and Central American countries.

4. Jute sacks. These are under English control.

5. Agricultural machinery—licenses will be granted liberally. Mining machinery, where required for production of metals—licenses will be granted liberally.

6. Articles of iron and steel manufacture. This characterization is very indefinite. Generally speaking, this country will license freely all articles of steel and iron manufacture which

¹ Not printed.

² *Ante*, p. 577.

are to be used for the purpose of producing war material for this country. In other cases this country, on account of the necessity for conservation, restricts the exportation of iron and steel to all countries.

7. Articles for the exploitation of mines, especially cyanide, dynamite, caps and fuse. Mexico is now getting cyanide for their gold products. All countries have been rationed with respect to cyanide since there is not enough to go around. Export licenses are granted for dynamite to Mexico as required for mining purposes. The same thing applies to caps and fuse.

8. Common soap. License will be granted for 2,000 tons.

9. Licenses will be granted for copper in manufactured form, but it is doubtful whether this country can afford to give licenses to an amount equal to 10 per cent of the total importation of copper from Mexico. The same remark applies to zinc. United States is very short of ferromanganese and, accordingly, will not be able to grant export licenses for this commodity to any great extent.

10. Licenses will freely be granted for the following food-stuffs to Mexico: canned herring, canned sardines, butter, cocoa, condensed milk, corn, cornmeal, corn flour, confectionery, including chocolate candy, barreled beef, dried fruit, lard, mutton oil, oats, pork, pork products, oleo oil, peas (not seed), tea. Purchases in considerable quantities to be made through Food Administration.

Department understands that pork products are greatly desired in Mexico and you should especially feature the fact that the United States will freely license all pork products to Mexico.

11. With reference to machinery and materials for railways shown in list attached to Foreign Office note No. 294, of April 6, 1918, licenses will be given for all except the following:

- (1) Copper bars, tubes, or pipes.
- (2) Structural steel, steel sheets, bronzing sheets and ingots.
- (3) Boiler tubes.
- (4) Plant for manufacture of boiler tubes—unless such plant is a second-hand one which can be spared in this country.
- (5) Ten thousand tons 75-pound rails. We are, however, making it possible for Monterey Iron & Steel Co. to turn out at least this amount of rails.
- (6) Twenty locomotives, 10 sleeping cars, 5 combination baggage and express cars. We cannot promise these now on account of shortage in this country, though it may be possible for Mexican Government to pick up a few of these which are not needed in this country.
- (7) Car-wheel and locomotive foundry. We could not spare any other than second-hand one.
- (8) General shop machinery. At the present time we could spare some second-hand machinery and some new shop tools of varying classes.

The above list is not meant to be exclusive. No doubt from time to time this Government will be able to add thereto and will be glad

to consider carefully any requests for additions made by the Mexican Government.

With reference to the henequen contract, United States Food Administration takes pleasure in announcing that it has contracted with the Compañía Reguladora de Henequén for the sale of 500,000 bales of henequen delivered at United States Gulf ports. The United States is very gratified that this matter has been satisfactorily adjusted.

In announcement you should make it clear that United States in taking this friendly position is relying on Mexico continuing to allow commodities not imperatively needed by her to be exported to the United States, and also on the assumption that Mexico will not permit to be reexported commodities and food received from the United States, or similar commodities and food.

LANSING

File No. 612.119/1795

The Ambassador in Mexico (Fletcher) to the Secretary of State

[Telegram]

MEXICO, July 9, 1918, 5 p. m.

1260. Your 1240. I propose to give the following announcement to the press Wednesday afternoon at 6 o'clock for publication Thursday morning newspapers.

In giving concrete expression to the friendly sentiments expressed in behalf of the Government of the United States by President Wilson in his address to the Mexican journalists at the White House on June 7 last, the Department of State has arranged that export licenses will be freely granted for shipments to Mexico of the commodities hereinafter enumerated, subject only to the restrictions imposed by the laws and regulations of the United States respecting trading with the enemy.

Here, first, list of articles which will be licensed freely and, secondly, list of articles which will be licensed in quantities and under certain period.¹ Announcement continues.

The above list of articles is not meant to be exclusive. The Government of the United States will be glad to consider carefully and in the most friendly spirit any requests which the Mexican Government may make for the inclusion of other articles in this list. The United States has been compelled to conserve certain commodities indispensably required for its own use and for the use of the Governments associated with it in the war which in normal times would be permitted to be freely exported from the United States to Mexico, but as a result of the efforts of the United States Government to stimulate production the list of such conserved articles will gradually contract and conditions of trade and intercourse between the two countries will, it is hoped, soon become normalized. In taking this friendly position toward Mexico the United States Government has no doubt that the Mexican Government will continue to allow commodities not imperatively needed in Mexico to be exported to the United States and will not permit the commodities and food received from the United States nor similar commodities and food to be exported to other countries.

HENRY P. FLETCHER

¹ See Department's circular to consular officers in Mexico, dated July 22, 1918, *post*, p. 630.

File No. 711.12/117

The Ambassador in Mexico (Fletcher) to the Secretary of State

[Telegram]

MEXICO, July 11, 1918, 10 a. m.

1263. My statement published to-day on the first page of *Excellor*, *El Universal*, and *El Pueblo*.

FLETCHER

File No. 711.12/132a

The Secretary of State to the Consular Officers in Mexico

[Circular]

WASHINGTON, July 22, 1918.

GENTLEMEN: The attached memorandum faithfully interprets the wishes of the President and indicates the policy of the Department of State towards Mexico. In order that this policy may be given the largest possible measure of expression it is essential that the Department be kept fully informed relative to actual conditions in Mexico. You will therefore give the closest study to the conditions in your consular district, with particular reference to anti-American feeling, its origin and extent, and food shortage and industrial and other requirements, and you will as soon as possible briefly telegraph the Department such recommendations as you may feel will be helpful in dealing with the general situation as well as with the conditions peculiar to your consular district. You will follow up this cable with a mail despatch in which you should give a complete and frank expression of your views, together with your reasons for any recommendations you may make.

I am [etc.]

For the Secretary of State:

WILBUR J. CARR

[Enclosure]

MEMORANDUM

The President, in addressing the Mexican editors whom he received at the White House on June 7, took occasion to reiterate his sentiments of friendship for the Mexican people.¹ To drive home to the Mexican people the settled conviction that the President is determined to translate into concrete and tangible form his expression of friendship for Mexico has been the problem which has engaged the particular attention of the Department for the past six weeks. The following is a brief history of the Department's efforts to meet and solve this problem.

On April 6, 1918, the Mexican Secretary for Foreign Affairs presented to Ambassador Fletcher a note to which was attached a list of commodities needed by Mexico. This list was immediately forwarded by the Department to the War Trade Board and to the Food Administration and conferences were held with a view to the readjustment of our conservation policy with reference to the needs of Mexico as set forth in the list. At the conclusion of this conference the Department under date of June 24, 1918, telegraphed to Ambassador Fletcher asking his suggestions as to the most practicable way to meet Mexico's needs. The Department suggested to Mr. Fletcher the advisability of seeking an interview with President Carranza in order to express the desire of this Government to give tangible expression to the friendship which it has always

¹Ante, p. 577.

entertained towards Mexico. The Ambassador was authorized to assure President Carranza that this Government earnestly desires the political integrity and the commercial prosperity of Mexico and that it would gladly cooperate in supplying Mexico with her needs in exchange for such portion of that country's products as she did not herself imperatively require. He was also authorized to suggest the willingness of this Government to send to Mexico City a commission to confer with Mexican officials in order to adjust the questions now pending between the two countries.

On June 28 Ambassador Fletcher informed the Department that he had had a very cordial interview with President Carranza and had informed him of President Wilson's desire to translate into action his friendly sentiments for Mexico and that President Carranza had appeared greatly pleased and said that he thought intercourse both personal and commercial between the two countries should be normalized and the restraints now being put upon commerce and communication removed so far as possible. President Carranza added that if something were done along these lines he was of the opinion that all difficulties and show of resentment would speedily disappear. As to a loan, he stated that proposals of a tentative character had been made by a few private American bankers and that little had been accomplished because of the realization that without the sanction of the United States Government the loan could not be obtained. President Carranza felt that nothing could be gained by negotiations with these private concerns and admitted that the United States was the only place where Mexico could obtain the loan. He declared that he was not in any way obligated to any banking firm in this country. The Ambassador then assured President Carranza that he saw no reason why this matter could not be arranged. He suggested a conference, but President Carranza thought such a move unnecessary as he had little faith in conferences and preferred to deal directly with the Ambassador. He assured the Ambassador that he would be pleased to receive him at any time with a view to putting into effect the "new" policy of President Wilson.

On July 2, 1918, the Department telegraphed the Ambassador that as a result of the conferences of the War Trade Board and the Food Administration it had been learned that corn and pork products might now be exported to Mexico in a much more liberal manner, and the Ambassador was informed that he would shortly be instructed to make a statement for publication in the Mexican press.

Following this, on July 6, 1918, the Department telegraphed the Ambassador that the Department of State had arranged for a more liberal policy governing the granting of export licenses for shipments to Mexico, always, of course, subject to the restrictions imposed by the United States Trading with the Enemy Act, and the United States Enemy Trading List. The Ambassador was authorized to make the appropriate announcement in the Mexican press, but was instructed to make it plain that our Government had found it necessary to conserve for itself and for the use of the Allied Governments certain articles which would be permitted, ordinarily, to go to Mexico; but that, on account of increased production, the list of articles which have been prohibited is becoming shorter, and the necessity for the strict application of the embargo likewise decreasing; and that export licenses for the following products would now be issued in the manner indicated:

Between now and November, 1,500,000 bushels of corn.

Pork products—licensed freely; also the following foodstuffs: butter, mutton oil, oleo oil, barreled beef, corn meal, corn flour, oats, peas (not seed), tea, cocoa, condensed milk, canned sardines, canned herring, dried fruit, and confectionery, including chocolate candy.

Common soap—License to be granted for 2,000 tons.

Mining machinery—Licenses will be liberally granted, where required for production of metals.

Cyanide—since there is not sufficient to meet the demand, all countries have been rationed with respect to this commodity. However, Mexico is now being allowed sufficient cyanide for its gold products.

Dynamite, caps and fuse—being licensed as required for mining purposes.

Copper—While it is doubtful that this country can afford to give licenses for copper in manufactured form to an amount equal to 10 per cent of the total importation of copper from Mexico, licenses will be granted, in so far as possible.

Zinc—Same rule applies as governs copper.

Ferromanganese—Licenses can be granted only to limited extent, because of great demand and shortage in this country.

Agricultural machinery—Licenses will be granted liberally for its exportation.

Coke—If drawn from districts which will be specified, licenses will be granted.

Articles of steel and iron manufacture, which are mentioned in the request of April 6, of the Mexican Foreign Office—This is very indefinite. As a rule, licenses will be freely granted for all articles of iron and steel not used by this country for producing war material. On account of the necessity for conservation, this country restricts the exportation of these commodities to all countries.

Railway machinery and materials, as shown in the enclosure to the note from the Mexican Secretary of Foreign Relations (No. 294, dated April 6, 1918)¹—Licenses will be granted for everything except structural steel, bronzing sheets, sheet steel, ingots, boiler tubes, copper tubes, bars or pipes, plant for the manufacture of boiler tubes, unless it be a second-hand plant, which could be spared. Licenses would probably be granted for some new shop tools of varying classes, but unless some secondhand general shop machinery could be spared, exportation of this machinery would be difficult. We could spare only secondhand material for a car-wheel and locomotive foundry. We are making it possible for the Monterey Iron & Steel Co. to turn out at least 10,000 tons of 75-pound rails (which is one of the items in the list attached to the request of the Mexican Secretary of Foreign Relations), and with regard to the other item, which calls for 20 locomotives, 10 sleeping cars, and 5 combination express and baggage cars, we cannot promise these now, on account of the shortage in this country. However, it may be possible for the Mexican Government to purchase a few of these which may not be needed in this country (for instance, second-hand ones), and, in such case, we would be pleased to consider granting a license.

Ammonia—In regard to licenses for its exportation, Mexico will be given the same treatment applied to all other Central and South American countries; that is to say, no licenses granted for the purpose of beer-making, but granted when it is to be used for ice-making, refrigerating, and foodstuffs.

The Ambassador was authorized to state that the foregoing list was not meant to be exclusive; that it was possible that, from time to time, this Government might find itself in a position to add thereto, and that, should such a condition arise, it would be pleased to give careful consideration to any request for additions which might be made by the Mexican Government.

The Ambassador was instructed to make it clear, in any announcement which he might make, that, in giving this demonstration of its friendliness, this Government relied on Mexico's continuing to allow the exportation to this country of such commodities as were not imperatively needed by her; and that it also relied upon Mexico not to permit the reexportation of such commodities as will, under this plan, be granted export licenses from the United States to Mexico.

On Wednesday afternoon, July 10, 1918, Ambassador Fletcher gave out a statement for publication in the morning papers of July 11. This statement embodied the matter set forth in the telegram last above outlined.

MESSAGE OF PRESIDENT VENUSTIANO CARRANZA TO THE NATIONAL CONGRESS, SEPTEMBER 1, 1918

File Nos. 812.032/33 and 812.032/35

The Ambassador in Mexico (Fletcher) to the Secretary of State

No. 1385

MEXICO, September 4, 1918.

SIR: I have the honor to confirm my plain telegram No. 1472 of September 2, noon,² in which I briefly summarized the references to foreign affairs in the President's annual message to Congress, and to enclose, herewith, the full Spanish text of this document, together with a translation of that portion of the message which deals with

¹Ante, p. 624.

²Not printed.

the foreign relations of Mexico and summaries of other portions relating to the petroleum and paper decrees and other matters of interest to the United States. I have not had time to make translation of the message in full, but shall later cover by translation to the Department the more important items of this document.

The Department will note that the larger part of the message in regard to foreign affairs deals in none too friendly a spirit with difficulties with the United States. There is also an aggrieved reference to the attitude of the British Government in connection with their reply as to the acceptability of a Mexican Minister to London.

I have [etc.]

HENRY P. FLETCHER

[Enclosure—Translation]

Extracts from the Message of President Venustiano Carranza to the Mexican Congress¹

The Republic continues neutral in the midst of the European conflict which daily involves other countries, experience having shown that the Government in my charge has done rightly in proclaiming and maintaining neutrality, this policy having been unanimously approved by public opinion. The Executive congratulates himself upon having obtained, through the maintenance of neutrality, the welfare of the people.

In order to comply fully with the duties imposed by neutrality, the Department for Foreign Affairs issued opportunely and distributed profusely, a circular containing the principles of international law and of the Hague conventions applicable thereto. However, notwithstanding the fact that all the authorities in their respective spheres of action have followed the indications of the Executive in maintaining a loyal and strict neutrality, Mexico has been obliged on repeated occasions to enforce respect therefor; some delicate and difficult cases having arisen which authorize the Executive to state that the maintenance of neutrality has demanded a real and constant effort on the part of the Government.

The Government of the United States of America, in order to take care of its own requirements and satisfy the needs of its allies, has made effective a series of rulings restricting its imports and exports, as well as the traffic of persons across our boundary line. The Mexican Government tried to enter into an agreement for trade intercourse, in order to obtain, in exchange for articles produced in Mexico and which the United States requires, certain quantities of cereals and other supplies. The commissions drew up and approved a draft of an agreement, which the Executive refused to ratify as he did not feel that it filled the necessities of the moment, and because it contained certain clauses contrary to public right. For a long time the country has lived on its own resources without suffering privation of any sort, thanks to its admirable vitality and rich soil. Lately, the President of the United States, desirous of giving a proof of true friendship toward Mexico, has declared that he would permit the purchase and sale of articles of prime necessity and others, and by virtue of this concession, some rather large importations have been made.

In commercial matters, the Government has had to solve other questions relating also to its neutrality. The so-called "black lists" are no more than mere restrictions to the commerce of a neutral country, imposed by the belligerents to prevent all transactions with the subjects of an enemy country. Mexico has not recognized such lists and within its territory they have not the force of law, various cases having arisen in which the Mexican authorities have had to intervene in an energetic manner in order to oblige captains of boats to deliver merchandise consigned to persons or companies included in the "black lists", the delivery of which was denied for the reason stated. I shall relate the following case: The captain of the steamer *San Pedro* refused to make delivery of merchandise carried by him, consigned to a Mexican firm and to a German firm in Guaymas. The Consul of the United States agreed that it should be delivered. Not so with the British Consul, who permitted only the goods for the Mexican house to be unloaded. A heavy bond was exacted of the captain. The corresponding representation was made to the Government of

¹The last two paragraphs of this enclosure were transmitted with a subsequent despatch (No. 1403, Sept. 11, 1918; File No. 812.032/35).

the United States, and it was told that the Mexican Government would find it necessary to withdraw the exequaturs of American Consuls who should repeat the procedure of the Guaymas Consul, and as the British Consul showed himself to be hostile to a marked degree, it being he who determined the captain's conduct, his exequatur was withdrawn.

In concluding that part of this report relating to the restrictions which Mexico has suffered in its maritime commerce I must report to the Congress that the Government of the United States of America has put into effect severe rulings relative to the supplies of coal and foodstuffs for the use of ships sailing from its ports, inasmuch as fuel is not furnished them unless the captain or the owner obligates himself to return to an American port once the boat has discharged its cargo at destination. As this ruling injures our commerce, an endeavor has been made to obtain an exception in favor of our vessels.

It is necessary to record certain cases of violation of our neutrality.

A number of units of the United States Navy have arrived at our territorial waters on both coasts, and, generally speaking, they have governed themselves by the principles of international law, relative to the length of time they may remain at ports, the taking on of supplies, rights of visit, etc. I say in general, because there have been some exceptions consisting in that such vessels, instead of remaining 24 hours, remain a few hours longer, appropriate diplomatic representations being made in such cases.

In January, last, an incident occurred at the port of Ensenada, Lower Calif., caused by the commandant of the United States warship *Iroquois*, who sent some of his Marines on board the United States merchant vessel *North Folk [North Fork]* in order to oblige it to sail for San Diego, Calif., without reporting to the customhouse nor to the Mexican authorities, his reason being that the said merchant ship had violated the provisions of the Trading with the Enemy Act. Energetic representations having been made to the Washington Government by our Ambassador, a full apology was made, and we were informed that the commandant of the *Iroquois* had been relieved of his command as punishment for the fault committed.

In April, this year, various Marines who had gone ashore at Tampico from several war units of the United States, caused a scandal and killed a Mexican police officer who went to the scene of the disturbances; the result was a general fight in which 2 Mexicans and 2 American Marines were killed, and the remaining 11 Marines were arrested, who, after 16 hours of imprisonment, were set free, it having been proven that the guilty were those who had died.

The Department for Foreign Affairs received a report that the gunboat *Brutus*, belonging to the United States Navy, at Mazatlán, had committed an offense against the sovereignty of Mexico. The said ship remained in our territorial waters more than the 24 hours provided for by the Hague conventions, and these being the circumstances, the British Vice Consul at Mazatlán requested permission of our authorities for the *Brutus* to tow a British merchant ship which was in Mazatlán. Our authorities refused to grant the permission, and as a precautionary measure against any act which might be attempted, an endeavor was made to change the anchorage of the *Violet*. The submarine chaser 302 made an attempt to prevent this being done, and warned our authorities, within Mexican territorial waters, to suspend the maneuver ordered, or it would open fire; and, in effect, it placed itself in position for battle, loaded its gun, made ready its machine guns, and armed the crew with rifles and pistols. Finally, it took position to permit its crew to cut the towable, which they were unable to do, notwithstanding their efforts. Opportune instructions were given to our Ambassador to protest against the offense.

The Department was informed that the United States warship *Marblehead* had detained close to our Pacific coast a merchant vessel of the same nationality, and had taken therefrom as a prisoner, the purser, Juan R. Ramirez, a Mexican citizen, accused of having violated certain laws of the United States relating to the war. Our authorities are making the necessary investigations and securing all pertinent details, in order that appropriate action may be taken.

The captain of port of Magdalena Bay, Lower Calif., has reported that United States vessels of war frequently enter the bay and practice therein, the crews going ashore to execute land maneuvers, without even having the courtesy of informing our authorities, and remaining a longer time than that permitted by international law. Our Ambassador has been given instructions to make the appropriate reclamations.

In Tampico the United States warships *Ozark* and *Annapolis* have been anchored for a long time, thereby violating the same principles, and interrupting with the activity of their wireless apparatus the transmission of messages by our Government. The using of the said wireless apparatus constitutes a new violation of the Hague conventions. Representations in the matter are being made, inasmuch as the Mexican Government sustains that the neutrality of Mexican territorial waters should be strictly respected, and that in no case and for no reason may the violation thereof be justified.

The authorities of the United States, because of the war, continue to commit acts in violation of the rights of Mexicans living there. In passing through San Francisco, Calif., the baggage of our naval attaché to our Legation in Japan, was opened with false keys by the San Francisco port authorities and three customhouse inspectors. Instructions were given opportunely to our Ambassador to make appropriate representations.

The flights of American Army airplanes have continued over our territory, notwithstanding the promises to put a stop to same made by the authorities of that country, and the representations we have made.

Recently it was ascertained that an American submarine chaser, No. 279, had been anchored for several days at one of our coast ports near Santa Rosalia, Lower Calif.; upon the commander being questioned by our authorities, he stated that he was there by orders of his Government and that without them he would not leave. Later another ship of the same nationality arrived and it put out to sea, visiting shortly afterwards a Mexican merchant ship which was sailing in those waters. In this case, as in all, the Department has taken the appropriate steps.

The 27th of August, as a Mexican citizen was passing from Nogales, Ariz., to Nogales, Son. (towns which are separated by a street in the center of which runs the boundary line between the two countries), he was challenged by American soldiers whom he did not heed; when he had passed into Mexican territory, they fired upon him, killing him. The firing was answered by Mexican guards who were on duty. This caused the firing to become general and the citizens on both sides of the line made use of their firearms. Our small garrison, of not over 50 men, also took a part. The American soldiers who on the east side invaded the territory of the Republic, were repulsed. The affair lasted three hours and firing ceased by virtue of an arrangement between the Mexican and American military authorities through our Consul in Nogales, Ariz. There were 13 killed and 15 wounded of the Mexicans, among the former being the municipal president of Nogales, Son., Mr. Felix B. Peñaloza. The majority of the killed and wounded were of the civil population, as only one soldier and two customs guards were included in the casualties. The American press has published 33 casualties, including killed and wounded, belonging, with one exception, to the military element of that country. Gen. Plutarco Calles, Governor of Sonora, conferred with the American General Capell, it being agreed that the judicial authorities of both countries would make the necessary investigations as to the origin of the conflict, reporting to their respective Governments. It was also agreed that reciprocal measures would be taken to avoid a repetition of the incident, which was considered merely as a local affair, since the people of both countries were on friendly terms, and that neither Government had had anything to do with the matter. Commercial traffic was renewed at once. The Mexican Government will take the necessary steps to reach a decision regarding this painful incident within the terms of strict justice.

Mexico has suffered from the nations at war the violation of its correspondence, not only ordinary mail, but in some cases diplomatic and official; but whenever it has been appropriate to do so, corresponding representations have been made based on the principles of international law.

By reason of the entry by the United States into the European War, President Wilson issued a proclamation on May 18, 1917, ordering that all male residents of the United States within the ages of 21 to 31, should register for Army service. Once registered, each one could allege the exceptions in his favor to avoid service, such as foreign nationality, etc. An immense number of our compatriots living in that country belong to the laboring class, or are simply workmen or masons. Due to their ignorance, they either did not register, or, having registered, did not take steps to secure exemption, and for this reason many of them were forced to enter the ranks and others were sent to the battle line.

In all cases where our Ambassador and our consular agents learned of such incidents, they took such action as they were able, to secure exemption for our compatriots and have them return to their usual avocations. For this purpose, they stumbled against the grave difficulty of submitting satisfactory proofs of nationality, inasmuch as the major part of these Mexicans had no documents to prove their Mexican origin. However, in such cases as our Ambassador or our consuls had sufficient evidence, they secured exemption for the Mexicans enlisted in the Army.

In this respect, another grave difficulty arose. An immense number of Mexicans had endeavored to secure United States citizenship, having filed for that purpose what is called there "a declaration of intention," this being a preliminary procedure, from the date of which a certain period of time is indispensable in order to repeat the request and obtain the nationality. Those who had made this "declaration of intention" were considered by the United States authorities as obligated for Army service; but our Government considering that the "declaration of intention" does not, either under our laws or under the laws of the United States, imply a change of nationality, has insisted firmly that such Mexicans should be exempt from service, inasmuch as they are not citizens of the United States. On the other hand, the said Government declared that the law governing the matter obligated for military service even those individuals who should have made their "declaration of intention"; but that the President of the Republic, in order to show his good will toward neutral countries, such as Mexico, would consider the petition of any Mexican who should be in such a position as that stated, in case our Government should make the request, supported by proofs of the Mexican nationality of the interested party.

Another difficulty arose regarding the enlistment: The laws of the United States, inspired in the principle of *jus soli*, provide that any person born in its territory takes that nationality (Amendment 14, Section 1 of the Federal Constitution of the United States), while our laws (Article 30 of the Constitution) declare to be Mexicans those who are born abroad of Mexican parents. This conflict of laws is one for which there is no satisfactory solution, international law advising that the law of the country of residence should be applied, so that, in this case our Government can do nothing in favor of our co-nationals born on the other side of the Bravo, unless the conflict should be brought to a close by means of a treaty.

As a result of the various representations made by our Ambassador on the subject, the Department of State has offered to take under advisement the requests for exemption presented by the Mexican Government and to adopt a plan by which persons enlisted who present sufficient data to establish a rational presumption of Mexican citizenship, shall remain in the United States until a definite decision can be reached regarding them. Notwithstanding this, there continue to be cases of Mexicans who are sent to the battle front, thus giving rise to energetic representations on the part of our Embassy, which takes the stand that in the majority of cases of enlisted Mexicans—practically all laborers—they have not complied with the complicated formalities exacted for their registration, exemption, etc., because of ignorance, since many do not know how to read or write, and they are therefore acting in good faith, and that, for this reason, they are included under the provisions of Section 139 of the military selective service law of the United States, which stipulates that exemption shall be granted when Army service is too severe a punishment for persons whose delinquency is not wilful.

The fact is that some Mexicans enrolled against their will, have perished at the front, others have not as yet obtained their liberty, and others are yet fighting.

It is proper to note the case of Martin Sánchez Guerrero, whose nationality has been fully proven, notwithstanding which our Ambassador has not had a favorable decision regarding his exemption. Our Ambassador, referring to this matter, mentions others in the following terms: "For a long time they have not conceded the discharge of any of the Mexican citizens recruited, and there are cases which have been treated for six or eight months without result."

This situation threatens to become more grave with the current of Mexican laborers to the United States, requested for agriculture in that country, and where, notwithstanding the fact that they are urgently needed, certain formalities and declarations are exacted of them, and even the renunciation of nationality. The Mexican Government can not, legally, impede the emigration of the laborer, but an endeavor has been made to make clear to him the

contingencies to which he is exposed, and the Embassy has drawn up a form of laborer's contract to guarantee the interested party fully as regards the full payment of his salary, the treatment he is to receive, and his return. It is the intention of the Executive not to overlook either this question or that of enrollment and he shall endeavor to arrive at a satisfactory solution of both.

The Mexican Government, desirous of completing its diplomatic representation in Europe, consulted the British Government as to whether Mr. Alfonso M. Siller would be *persona grata* as envoy extraordinary and minister plenipotentiary. The British Foreign Office replied that it was not disposed to consider the matter unless Mexico should give assurances that it would observe a neutral attitude in the war and protect the interests of British subjects. As the Government has complied strictly with its duties as a neutral, and has always endeavored to afford guarantees to foreign and national interests, it so stated to England, and has no longer insisted upon naming a minister, inasmuch as the Executive in my charge believes it to be preferable, for the dignity and tranquillity of the country, that it should not maintain diplomatic relations excepting with such nations as treat it with respect and equality such as it is entitled to receive.

It also consulted the Government of the French Republic as to whether Mr. Rafael Nieto would be *persona grata* as Minister of Mexico. To date no reply has been received.

The stamp tax revenues on crude oil have steadily increased with the rise in the price of this article in foreign markets. The rate of 10 per cent *ad valorem* has not been modified; however, due to the increase in the price of this fuel, the revenues to be obtained from same will probably increase 50 per cent this two months.

It is well to note that the stamp tax on petroleum products (refined) within the country, has been reduced to 50 per cent, for the purpose of stimulating the national industry which has an enviable future.

The revenues from stamp taxes on crude petroleum and its products are estimated for this year at a little over twelve million pesos.

A tax has been established on oil lands and oil contracts, based on the provisions of Article 27 of the Constitution.

The Constitution of 1917 destroyed the legal system derived from the mining code of 1884, which excepted petroleum claims from the payment of the *pertenencia* tax, and from the requirements established by the mining laws for the constitution of claims; the right to explore the subsoil was yielded to surface owners by the said code, and the said owners could exercise that right or transfer it to others at will. Our Constitution declared that the dominion of the nation over oil claims was inalienable and imprescriptible, and, therefore, put the bases of property with reference to oil deposits on the same footing as those governing mining property.

The rights of the nation to petroleum deposits having been redeemed, the Executive, in the exercise of this right, and by virtue of the extraordinary powers in the Treasury conferred upon him, issued the tax law on oil claims dated February 19, this year. This law establishes a tax on lands used for oil exploration and exploitation, and on contracts entered into for the cession of the privileges established by the code of 1884. It established, until such time as the regulations of Article 27 are issued, an annual rental of 5 pesos per hectare and a royalty equivalent to 5 per cent of production, which tax represents the value of the usufructs to be granted.

In general, the rental is lower than the average rentals stipulated in oil contracts registered in Tuxpan during the years 1913 to 1916, and the royalty is equivalent to half of the royalty which on an average is stipulated under oil contracts in the State of Vera Cruz. Again, this rental is proportional and at the same time lower than the minimum rental collected on mining claims, and the stamp tax on titles of oil claims is much lower than that exacted of miners, these differences having been established because the oil industry requires larger areas of land to guarantee the success of the enterprise.

As was to be expected, this law met with great resistance on the part of the interests involved, and in view of the reasons set forth by private persons and by 40 American companies who considered that their interests would be injured, and which sent their representatives to the Executive to consider the matter, the said law was modified to an extent which was considered equitable, and to this effect, the decrees of July 31, and August 8 and 13, this year, were issued; and it should be noted that in principle the provisions of the decree of

February 19, 1918, continue in effect, since the modifications made refer only to form and details. . . .

In order to adapt the mining law to the precepts of Article 27 of the Constitution, a study is being made of a new mining law which will shortly be submitted to the consideration of the two legislative houses. The reorganization having been begun of mining agencies, the service rendered by them is improving, so that by 1919 the number thereof will have been reduced to one-half of those now existing. In order that this improvement may not, if rushed, cause difficulties, it will be put into effect gradually, for which reason it will not be concluded until the latter part of the year stated.

The country's petroleum wealth, the national ownership of which was recovered by the present Constitution, has been the subject of especial attention on the part of the Executive, notwithstanding the resistance shown by interests which created the rulings which formerly deprived the nation of property belonging to it. Owners of lands in the subsoil of which there are deposits of oil have tried to make it be believed that with the return to the dominion of the nation of the hydrocarbides of that subsoil, the oil industry would suffer heavily, when, on the contrary, the opportunity which can now be given to as many as wish to invest their capital in the utilization of such wealth, may have an ample development once there have been removed those difficulties which have been placed in the way by the excessive thirst for gain so characteristic of owners, lessees, and sublessees of lands in which oil may be found. This is proven by statistics which show that various landowners have derived, without any effort, large profits from the work of others, and that, on the other hand, many companies, formed to exploit mineral oil, have succumbed, exhausted by the rentals for the lands upon which they contemplated drilling. Naturally, the Executive in my charge, has not hesitated to use every effort to reach satisfactory solutions; and maintaining the principle of justice which obligates him to defend as national property the deposits of oil, he has issued, within the bounds of his administrative powers, such dispositions as tend to facilitate the transition from the system of individual property of the said deposits to that by which the dominion of the same is returned to the nation. The bill whereby this feature of Article 27 will be regulated, will be presented shortly to the Congress. . . .

FINANCIAL AFFAIRS¹

Decrees Relative to Law of Payments; Protest of the United States; Sequestration and Liquidation of Banks in Mexico; Attitude of the United States toward Loan Negotiations of Mexico

File No. 812.51/404

Mexican law of payments of December 24, 1917, forwarded to the Secretary of State by the Vice Consul at Mexico, D. F. (Zabriskie), January 14, 1918

[Translation]

Venustiano Carranza, Constitutional President of the United Mexican States, to his people. Know ye:

That in the exercise of the extraordinary powers invested in me by the Honorable Congress of the Union, I hereby decree the following:

ARTICLE 1. The considerations of the present law, which is directed exclusively towards the ends herein expressed, embrace the following:

I. Obligations effected previous to April 15, 1913, that is to say, during the period of metal currency.

II. Obligations effected during the period of the circulation of paper money, that is to say, from April 15, 1913, to November 30, 1916.

¹ Continued from *Foreign Relations*, 1917, pp. 998-1017.

III. Obligations effected during the same period and which by virtue of an expressed agreement are considered as contracted in a definite kind of money.

IV. Obligations of any kind that were effected after November 30, 1916.

ART. 2. For the purposes of this law all obligations effected for the payment of revenues will be considered as having originated on the day when the interest became due.

ART. 3. For the purposes of this law the contracts that were renewed after April 15, 1913, will be considered as having been effected after that date; but in order that such a renewal may receive consideration it will be necessary to clearly prove that there was the intention to substitute the former contract for another of a different kind.

ART. 4. As to obligations effected during the régime of the circulation of paper money or those renewed during that period, the payment in metal money of assignments made out in the form of notes or ordinary printed documents will not be considered as having been expressly contracted when the debtor has received paper or bills, even though the document specifies that same shall be paid in metal.

ART. 5. As to obligations effected on accounts current, this law can only be applied when it refers to the unpaid portion of said accounts, inasmuch as the payments already made will be regarded as perfectly valid notwithstanding the kind of money in which same were made.

ART. 6. The holders of drafts that have not been duly cashed have no right to collect any amount of interest money from the drawee, although the depositor has the right to charge interest to the holder of his funds.

ART. 7. The present law does not apply to any obligations effected by insurance companies and those organizations that have been operating under the guarantee of the Federal Government, or as a simple derivative of same, which have assumed the part of creditors, debtors, or bondsmen. For these concerns special arrangements will be established.

ART. 8. Neither does the present law apply to obligations relating to rents, to which the following rules will be applied:

I. To obligations made prior to December 14, 1916, the dispositions contained in Section I of Article 7, and those contained in Articles 8 and 9 of the decree of said date will be applied; and the rents referred to in Section II of the above-referred-to Article 7 will be paid entirely in metal; in consequence of which clauses *a* and *b* of said article are repealed. The proprietors shall not increase the rentals to an amount greater than what is specified in the respective contracts so long as the houses remain occupied.

II. To contracts celebrated after December 14, 1916, the rules of the respective civil codes will be applied.

ART. 9. Without prejudice to the manner and terms of payment of the principal part of the contracts referred to in Section I of Article 1 of this law, the moratorium in respect to same is raised according to the following rules:

I. The sum total of the interest moneys accruing from the month of August 1913 up to the 30th of November 1916, inclusive, which interest moneys will be considered as having been created in paper money, are payable on demand according to the dispositions of Article 2 of the present law and will be paid in current money of Mexican coinage after previous reduction has been made in accordance with the dispositions of Article 10 of this law.

II. Fifty per cent of the interest moneys accruing previous to the month of August 1913, and fifty per cent of those accruing after November 30, 1916, are payable on demand.

III. Fifty per cent of interest moneys accruing in future are payable on demand, excepting those relating to mortgage credits when it is proven that the property returns are sufficient to make the entire interest payment, in which case the total amount will be payable on demand.

ART. 10. Without prejudice to the manner and terms of payment of the principal part of the obligations referred to in Sections II and III of Article 1 of this law, the moratorium in respect to same is raised according to the following rules:

I. As to the obligations referred to in Section II of the above-referred-to Article 1, the total amount of the interest moneys accruing from the month of August 1913 up to November 30, 1916, inclusive, and those accruing in future, and 50 per cent of the interest moneys accruing during the months of April, May, June, and July, 1913, are payable on demand. Said interests will be determined according to the amount that represents the debt in national gold, after same has been reduced to metal currency, the equivalents of the paper peso in national gold being considered according to the following:

	1913	1914	1915	1916
January-----	74 cs.	28 cs.	9 es.	
February-----	69 "	26 "	8 "	
March-----	63 "	22 "	5 "	
April-----	par	58 "	18 "	7 "
May-----	"	66 "	17 "	20 "
June-----	"	65 "	17 "	12 "
July-----	90 cs.	62 "	10 "	10 "
August-----	79 "	53 "	13 "	7 "
September-----	73 "	40 "	13 "	5 "
October-----	72 "	40 "	14 "	3 "
November-----	71 "	39 "	14 "	1½ "
December-----	71 "	37 "	12 "	

II. The entire amount of the interest moneys that have already accrued and those that are still accruing as a result of the obligations wherein payment in foreign money is specified is payable on demand, said payment to be made in money of current Mexican coinage on the total value of the debt, after same has been reduced to metal, in conformity with the quotations made by the Department of the Treasury, according to the date on which the obligation becomes due.

III. The entire amount of the interest moneys that have already accrued and those that are still accruing as a result of the obligations wherein payment in notes of some particular bank is specified is payable on demand, said payment to be made in moneys of current Mexican coinage on the total value of the debt after same has been reduced to metal, in conformity with the table to be issued by the Department of the Treasury.

ART. 11. In cases where there has been a division of rural properties on which mortgages have been settled, the interest moneys accruing on the part of the mortgage corresponding to each one of the divisions made in said property in accordance with the dispositions of Article 27 of the Political Constitution of the Republic will be payable on demand in conformity with the rules established by this law. Consequently, all mortgages on rural property are declared divisible, and each part of the divided mortgage shall bear a proportional relation to the whole mortgage as the values of the several land divisions bear towards the value of the whole. In these cases the authorities will exert the intervention that is incumbent upon them.

ART. 12. The payment of the interest moneys that have remained unpaid up to date and in respect to which the moratorium is raised shall be made by the debtors within a period of four months, same to be made every month in partial payments amounting to one-fourth of the total.

ART. 13. The capital and interests of the debts referred to in Section IV of Article 1 are payable on demand, and will be paid according to the stipulated terms in each case.

ART. 14. Obligations that are guaranteed by mortgages on both rural and urban properties that are located in any territory occupied by rebels of the Government will not be payable on demand, and this applies to capital and principal alike so long as such occupation lasts.

ART. 15. Loans made by beneficiary institutions having the character of Government pawnshops, whether they bear the form of pledge contracts or pawn tickets, shall be paid according to the following rules:

I.—BASES FOR REDEMPTION

Articles pawned previous to December 30,

1915	-----	at par
From January 1, 1915, to May 31, 1916	-----	20 per cent of the amount pawned
During June 1916	-----	18 " " " "
" July	-----	16 " " " "
" August	-----	14 " " " "
" September	-----	12 " " " "
" October	-----	10 " " " "
" November	-----	8 " " " "

II. Renewals will be subject to the same rule, the date of the transaction being taken as a base.

ART. 16. Private debts to the Federal Treasury, the Treasury of the Federal District, and those of the Territories, which do not proceed from contributions but which bear the character of purely civil obligations resulting from agreements or contracts entered into by the local or municipal or Federal Governments with private parties, will be subject to the general rules of this law and will be collected in the same manner as debts among private individuals.

ART. 17. The debtor will be obliged to pay only fifty per cent of the charges when court proceedings are adopted for the collection of interests in connection with which the moratorium has been raised or for the protection of debts maintained by the same moratorium. In the event of court proceedings because of the nonpayment of interests, there shall be no sale of the articles given in guarantee; but payment will be made out of the products of properties themselves, the embargo lasting not only for the time necessary for the payment of said interests but for all the time that the moratorium lasts and, in addition, for the time elapsing until the principal is collected. In cases concerning properties which because of their nature yield no returns, sales may be made for the payment of the amount owed as interest money payable on demand.

ART. 18. In every case where the application of this law does not appear sufficiently clear the proper authority shall issue, in duplicate, a statement containing all the attendant circumstances which he will submit, with his report, to the Department of the Treasury for its decision.

ART. 19. Any person interested in the application of this law may confer on the doubtful point respecting the disposition of same with the Department of the Treasury.

ART. 20. In conflicts between individuals respecting the application of this law recourse may be taken by the interested parties to the administrative branch of the Government through whose operation they will transmit a memorial to the Department of the Treasury in which will be set forth all the necessary data, and this Department will decide the controversy; but both of the interested parties must be willing to submit the case to said decision, and with the understanding that when the procedure through administrative channels has been chosen no recourse may be had to judicial procedures.

ART. 21. Charitable institutions and loan companies, as well as other recognized institutions of public utility, will in each case be enabled to make choice between the present law or the protection offered by the December 14, 1916, moratorium.

TRANSITORY ARTICLES

I. Former laws and dispositions conflicting with the present law are hereby repealed.

II. This law will go into effect on January 1, 1918.

Therefore, I hereby order that same be printed, published, circulated, and that due consideration shall be given to it.

Given in the Palace of the Executive Power of the Union, in Mexico, on the twenty-fourth day of December of the year one thousand nine hundred and seventeen.

V. CARRANZA [RUBRIC]

File No. 812.51/418

The Chargé in Mexico (Summerlin) to the Secretary of State

No. 798

MEXICO, February 20, 1918.

SIR: I have the honor to transmit, herewith, a letter addressed to the Honorable the Secretary of State, from Mr. George W. Cook,

2a Calle de Madrid, No. 35, Mexico City, enclosing a memorandum in regard to the new "Law of Payments" promulgated December 24, 1917, and which was reported by the Embassy in its No. 668 of December 19, 1917,¹ page 16, and No. 688 of January 2, 1918,¹ page 15.

I have [etc.]

GEORGE T. SUMMERLIN

[Enclosure]

Mr. George W. Cook to the Secretary of State

MEXICO, February 20, 1918.

SIR: I beg to enclose herewith a memorandum,¹ supported by eminent legal opinion, regarding the new "Law of Payments" decreed by President Carranza of Mexico under date of December 24, 1917, and the injury which the application of this decree works to the rights and interests of American citizens who are the owners of mortgages and other credits affected by this decree.

In common with many other American citizens resident in Mexico, I have in past years invested large sums in mortgages which stipulated the payment of both capital and interest in gold or silver coin of the weight and fineness prescribed by the Mexican law.

During the so-called "Pre-Constitutional Period" great quantities of paper money were printed and issued by the Carrancistas, and forced upon the public both by decrees and by the bayonet. That money never had any intrinsic value, nor was there any specific metallic guaranty back of it. It was "flat money" pure and simple, and its value in the market declined from an artificial and forced par at the time of its first issue in April 1913 to zero in December of 1916. At present, none of this flat money is of legal circulation.

During the circulation of this paper money, numberless creditors were forced to accept it at par in full payment of obligations contracted to be discharged in gold or silver coin. I myself, under pressure of the circumstances and forced thereto by the prevailing decrees and military and police regulations, received large amounts of this paper money in payment of interest on mortgages, book accounts for merchandise sold, rents, etc. But in spite of all efforts made to force me, by citation before executive authorities, threats of the wrath of the military powers, and deposits in the courts, to accept this paper money in payment of the capital of mortgages contracted to be paid in gold or silver coin, I have managed up to date to avoid receiving such flat money in payment of capital sums due me on mortgages, although various suits against me are still pending in which the mortgage debtors deposited the paper money in the court and demanded its acceptance by me in full discharge of their coin obligations.

Now, this new "Law of Payments" has been decreed, without even the color of right or legality, by which it is proposed to force creditors, in certain specified cases, to receive payment of the interest due them in gold or silver coin under the terms of their contracts, at the rate of the coin value of the paper money in the local market on the day that the interest matured, as per a table of equivalents set forth on page 2 of the accompanying memorandum. As most of the unpaid interest on obligations is that which matured in the latter part of 1915 and in 1916, the result of the application of the decree will be to compel the creditor to accept in full discharge, anywhere from 13 per cent down to 1½ per cent of the par value of the interest due him in gold or silver coin. The injury and injustice to American citizens resulting from this procedure are too obvious to require comment. My personal loss, under the most favorable interpretation possible of the decree, will amount to about 45,000 pesos; but under other interpretations which are more likely to be adopted, my loss will be several times that amount. If we are compelled to accept these losses under this decree, in addition to the tremendous losses we have heretofore sustained due to illegal revolutionary activities, our situation will indeed be difficult.

In view of the partial lifting of the moratorium which has so long covered obligations for the payment of interest, I am bringing several suits in the courts to recover interest due me in gold or silver coin, with the expectation that the lower courts, at least, will uphold the application of the decree, in which case it is my intention to carry the matter to the highest courts of Mexico. Should justice be denied me in the courts of Mexico, I wish then to seek the intervention and support of the American State Department.

¹ Not printed.

If this decree is successful in despoiling us of a great part of the interest due us in coin, I conceive that a serious danger exists that when the time comes to lift the moratorium in regard to the payment of the capital sums due on mortgages and other credits, an effort will be made through a new decree to work a similar spoliation in regard to such capital; and for this reason, it would seem all the more necessary to make a stubborn opposition to the application of the present decree.

In the meantime, any expression of opinion or any advice in relation to the matter herein treated of, from the Department of State, would be most helpful to Americans in Mexico and would have our grateful appreciation.

Very respectfully yours,

GEORGE W. COOK

File No. 812.516/206

The French Ambassador (Jusserand) to the Secretary of State

[Translation]

WASHINGTON, March 16, 1918.

My Government brings to my notice the jeopardy in which it thinks that foreign capital invested in Mexico is put by the bill providing for the creation, under the name of Bank of the Mexican Republic, of the one bank of issue contemplated by the last Carrancista Constitution.

Article 10 of the bill provides, in its last part, that joint stock companies shall deposit in the said bank the reserves that they are obliged to have in coin.

On account of the large number of such companies doing business in Mexico, the deposit would make up a large sum consisting almost exclusively of foreign capital which would thus be placed at the uncheckable disposal of the Mexican Government. The attitude assumed by it toward foreign funds justifies a fear that the provision under consideration is but hiding Mr. Carranza's desire to secure by that means funds for current expenses which he could only obtain heretofore through the ordinary course of a loan, or even his intention purely and simply to appropriate to his own use the said revenues at some time or other.

The Government of the Republic has made its fears known to its representative in Mexico and directed him to consider with his colleagues concerned the advisability of making to the Mexican Government the joint representations that such a measure warrants.

In compliance with my Government's instructions I have the honor to bring the foregoing to your excellency's knowledge and to beg you kindly to let me know whether you would not be disposed to have these views and what measures the Federal Government would be willing to take to meet the above-mentioned awkward situation.

Be pleased to accept [etc.]

JUSSERAND

The Secretary of State to the Ambassador in Mexico (Fletcher)

[Telegram]

WASHINGTON, March 28, 1918, 6 p. m.

925. Department learns through French Ambassador here that his Government considers last sentence Article 10 of bill concerning bank of issue objectionable, because it would place large sums of

foreign capital at disposal of Mexican Government, which might use them to pay current expenses, thus obviating necessity for loan, or even at some time appropriate them outright. French Government suggests joint representations of diplomatic representatives in Mexico City.

Telegraph your views on points raised, and what measures you consider advisable for this Government to take.

LANSING

File No. 812.51/418

The Secretary of State to the Ambassador in Mexico (Fletcher)

No. 504

WASHINGTON, April 4, 1918.

SIR: The Department acknowledges receipt of the Embassy's No. 798 of February 20, 1918, with which were enclosed a letter addressed to the Secretary of State by George W. Cook, 2a Calle de Madrid No. 35, Mexico City, and an opinion of Attorney Julio Garcia, of Mexico City, relating to the new law of payments, partly lifting the moratorium for the payment of money obligations, decreed by President Carranza on December 24, 1917.

In the opinion of the Department the provisions of Articles 1 and 10 of the decree with reference to two classes of obligations, namely, those which by their terms are payable in specie and those which, though payable generally, were contracted in the period of metallic money or prior to April 1913, and therefore intended to be payable in specie or in paper money equivalent in value, are open to objection on three grounds, viz.:

1. They reduce, on the basis of fixed ratios of equivalence of paper money in national gold, the amount of interest payable, and therefore amount to an impairment of the obligations of contracts, thus working an injustice upon creditors.

2. They are retroactive in character, and therefore unjust and also violative of the following provision of Article 14 of the Mexican Constitution, to the detriment of creditors:

No law shall be given retroactive effect to the prejudice of any person whatsoever

and

3. They deprive creditors of their property without due process of law, thus working by way of confiscation an injustice and also violating the following provisions of said Article 14 of the Constitution:

No person shall be deprived of life, liberty, property, possessions or right without due process of law instituted before a duly created court in which the essential elements of procedure are observed and in accordance with previously existing laws.

You will please inform the Foreign Office of the foregoing, stating that the Government of the United States cannot be expected to recognize the right of the Mexican Government to apply the objectionable terms of the decree to American citizens, and that it will so advise those of its citizens who may seek its advice.

You will also inform Mr. Cook of the nature of these instructions, and in response to his request for an expression of the Department's opinion or its advice, you may state to him that the Department considers that in pursuing his legal remedies, he has adopted the appropriate course.

I am [etc.]

For the Secretary of State:

ALVEY A. ADEE

File No. 812.516/208

The Ambassador in Mexico (Fletcher) to the Secretary of State

No. 924

MEXICO, April 17, 1918.

SIR: With reference to the Department's telegram No. 925, March 28, 6 p. m., relative to the objection raised by the French Government to Article 10 of the law governing the Mexican bank of issue, I have the honor to report that it is apparent that nothing may be accomplished at this time by individual or joint protest, and for this reason I suggest that no representations be made at present.

I have [etc.]

HENRY P. FLETCHER

File No. 812.512/1947

The Ambassador in Mexico (Fletcher) to the Secretary of State

No. 952

MEXICO, April 24, 1918.

SIR: I have the honor to transmit herewith a translation of a presidential decree issued April 13, 1918, establishing a Federal tax of 10 per cent on payments made on mortgages signed prior to April 15, 1913, provided such payments may be demanded at common law at the date the decree is issued, or may be subject to demand prior to December 31, 1919. This decree was issued on the same day as the presidential decree raising the moratorium on debts in general, referred to in Article 7 of the enclosed decree as the "Law of Payments".

I have [etc.]

HENRY P. FLETCHER

[Enclosure—Translation]

Decree of April 13, 1918, establishing a Federal tax on mortgage payments¹

I, Venustiano Carranza, Constitutional President of Mexico, to the people thereof make known:

That in use of the extraordinary powers in the Treasury with which I am vested by the Congress of the Union, have seen fit to decree the following:

ARTICLE 1. A Federal tax is created on mortgage payments.

ART. 2. Mortgage credits which come under the following conditions are subject to the tax referred to in the preceding article:

I. That the mortgage was created to guarantee the payment of a financial obligation.

II. That the contract was signed prior to April 15, 1913, and that payment thereof may be demanded under common law at the time this is issued, or payment of which may be subject to demand prior to December 31, 1919.

ART. 3. Mortgages created in the same deed covering the sale of the mortgaged property, are included in the provisions of the preceding article.

¹ *Diario Oficial*, Thursday, April 18, 1918.

ART. 4. The tax shall be payable by the mortgage creditors, and shall become due upon receipt by the creditor of payment of the debt either in part or in whole, whether payment is made with money or by means of the delivery of property, personal or real; it being understood that the tax shall be made applicable on amounts paid for account of the principal and not on those made for account of interest.

ART. 5. With respect to payments made to mortgage banks, in which are included both principal and interest, the amount corresponding to each shall be fixed in accordance with tables to be issued by the Department of the Treasury, and the tax made applicable to the portion corresponding to the principal.

ART. 6. Mortgage credit renewals shall be considered, for the purposes of this law, as payment made, and shall be subject to taxation on the total amount of the credit. The same shall apply when an extension of time is granted by the creditor to the debtor, for the payment of the principal on expired mortgages, it being understood that once the tax has been paid upon granting extension, the credit shall not again be subject to taxation when payment thereof is made.

ART. 7. The rate of taxation shall be 10 per cent on payments made by the debtor of partial liquidations, or on those payable by him under the terms of the law of payments of this date; of this amount, 1 per cent shall be for the municipality in which the property is located, 1 per cent for the State, Federal District, or Territory, and 8 per cent for the Federation. The Department of the Treasury shall make payment bimonthly to the local municipalities and governments of the amounts corresponding to them for this account.

ART. 8. The tax shall be collected by means of ordinary documentary stamps bearing the over-seal "Mortgages."

ART. 9. The tax shall not be made applicable to payments made for account of mortgages in which the creditors are: Charitable institutions; the Caja de Préstamos para Obras de Irrigación y Fomento de la Agricultura, the Caja de Ahorros y Préstamos de la Policía del Distrito Federal, and other institutions depending from the Federal Government, State governments, municipalities, and official establishments of public instruction.

ART. 10. Notaries before whom it is desired to draw up a public document covering the total or partial payment of a mortgage guaranteeing a loan of money, or covering the renewal of a mortgage credit, or an extension granted by the creditor to the debtor for the payment of the principal, shall, based on the data given in the document or documents, make out a special liquidation of the amount payable for account of taxes under Articles 5, 6, 7, and 8 of this law, and shall deliver to the parties interested a note showing the liquidation, which shall be presented to the corresponding stamp office.

Furthermore, the party interested shall prove by means of a written statement issued by the person in charge of the stamp office, that he purchased there the necessary stamps, and that the latter are to be used to cover the tax to which this law refers on the mortgage credit under consideration, and the notary shall make a record in the public document covering the transaction, that he has seen the said statement. The respective public documents can not in any case be authorized until the notary has satisfied himself that the liquidation has been approved by the stamp office, that the stamps required to cover the tax have been affixed to the note, and that the requirement for the presentation or insertion of the statement covering the purchase has been complied with.

ART. 11. In cases where the cancelation of the registration is to be effected by virtue of a public document, those in charge of mortgage matters may not do so until they are satisfied that the notary has complied with the provisions of the preceding article.

ART. 12. Judges in the entire Republic handling cases in which the cancellation should be ordered of a mortgage registration covering credits subject to the provisions of this law, may not issue a decision in the matter until opportune advice has been given to the stamp office and the necessary steps have been taken for payment of the tax by the creditor.

ART. 13. After 11 days from the date of payment of the mortgage credit, or upon expiration of the term fixed by the judge for presenting proof of payment by the creditor of the tax without the said payment having been effected, the debtor may, in order that cancellation may be made, pay to the stamp office the amount corresponding to the tax, and in such case the debtor shall have a claim on the creditor for the amount of the payment for account of the tax made by him.

ART. 14. Taxpayers who fail to liquidate all or any part of the tax created by this law, as well as the judges and notaries who through negligence fail to take the steps necessary to have paid the entire amount of the tax or any part thereof, shall be subject to a fine equivalent to the amount left unpaid, the taxpayers, when the circumstances require, being also subject to the payment of the amount in stamps left unpaid.

ART. 15. The collection of the tax covered by this law does not allow for the payment of fees to stamp tax collectors.

ART. 16. In cases not provided for by this law with respect to the tax created by it, the provisions of the Federal stamp tax law issued on June 1, 1906, shall be made applicable thereto.

I, therefore, order that this be printed, published, distributed, and given due compliance.

Given at the Palace of the Executive Power in Mexico, on the thirteenth day of April, nineteen hundred and eighteen.

V. CARRANZA [RUBRIC]

File No. 812.51/430

The Ambassador in Mexico (Fletcher) to the Secretary of State
No. 959

MEXICO, April 24, 1918.

SIR: I have the honor to enclose, herewith, the text and translation of a presidential decree signed April 13, 1918, lifting the moratorium on interest charges and 25 per cent of the principal of all legal debts contracted during the period of metallic currency prior to April 15, 1913, on debts contracted during the paper-money period from April 15, 1913, to November 30, 1916, and on those contracted during the same period to be paid in a specified class of currency, and also on debts contracted between November 30, 1916, and December 14, 1916.

I have [etc.]

HENRY P. FLETCHER

[Enclosure—Translation]

Law of payments, lifting the moratorium on interest charges and on 25 per cent of the principal¹

I, Venustiano Carranza, Constitutional President of the United Mexican States, to the people thereof make known:

That in the use of the extraordinary powers with which I have been vested by the Congress of the Union, I have seen fit to decree the following:

ARTICLE 1. This law shall cover, and the effects thereof shall be applicable exclusively to obligations the payment of which may be subject to demand under common law, on condition that they were assumed:

I. Prior to April 15, 1913; that is to say, during the time that metallic currency was in circulation.

II. During the time fiduciary money was in circulation; that is, from April 15, 1913, to November 30, 1916.

III. During the same period and with respect to obligations which may be considered as contracted in a specific class of currency.

IV. Within the period from November 30 and December 14, 1916.

ART. 2. For the application of this law, obligations which might have been renewed prior to April 15, 1913, shall be considered as having been assumed after that date, in accordance with Article 1606 and following articles of the Civil Code of the Federal District.

[Article 1606 of the Civil Code:

A renewal of contract takes place when the parties thereto make substantial modifications, making it subject to different terms and conditions; substituting a new debt for the old, or making any other modification which essentially affects the contract, and which indicates the intention to create a new obligation in lieu of the old.]

ART. 3. With respect to obligations assumed during the time fiduciary currency was in circulation, or which may have been renewed during such period,

¹Díario Oficial, April 17, 1918. Paragraphs inserted in brackets were taken from El Universal, April 18, 1918.

the fact that payment in metallic currency was indicated shall not be considered as an express agreement, when the said stipulation is contained in printed skeleton or blank contract forms, and in cases where the debtor may have received paper currency or bills even though the document states that payment shall be made in metallic money. The stipulation that payment shall be effected in currency which may be in circulation shall be considered only as an obligation to pay in money of legal value, but the amount of the debt shall be reduced to metallic currency at the rate of exchange in effect on the date the obligation was assumed, in accordance with the table shown under Article 10, Section I of this law.

ART. 4. This law is applicable only to the unpaid portion of obligations, inasmuch as liquidations already made shall be considered as entirely valid, whatever may have been the class of money in which payment was made, excepting in cases of judicial suits where, by reason of common consent, the court may render a decision in regard to the legal validity of the act.

ART. 5. Obligations assumed after December 14, 1916, are not subject to this law; not being subject to the moratorium created by the law of the same date, they are subject to the corresponding civil laws.

ART. 6. Obligations relating to the banks of issue, which shall be governed by a special law, are also not subject to this law.

ART. 7. Lease contracts will continue to be subject to the provisions of Article 8 of the law of payments of December 24, 1917. Petroleum contracts signed prior to May 1, 1917, covering the leasing of lands for the exploitation of hydrocarbons or covering permit to do so under onerous title, shall continue to be governed by the law of the 9th instant.

[Article 8 of the law of payments of December 24, 1917:

ART. 8. Contracts covering leases are also not subject to this law; to these the following rules will be applied:

I. With respect to contracts made prior to December 14, 1916, the provisions of Articles 7, 8, and 9 of the decree of that date shall apply, excepting paragraphs (a) and (b) of Article 7, fraction II; it being understood that the owners may not increase the amount of rentals beyond that stipulated in the respective lease during such time as the house continues to be occupied.

II. With respect to contracts made after December 16, 1916, the provisions of the respective Civil Codes shall apply.]

[Articles 7, 8, and 9 of the law of December 14, 1916:

ART. 7. Rental contracts are excepted from the moratorium; to these the following rules shall be made applicable:

I. Unpaid rentals falling due prior to the date of this decree shall be subject to demand for payment in metallic money, on the basis of 20 centavos for each peso paper currency, taking into consideration in this respect, the corresponding increases mentioned in Article 37 of the law of payments. In the case of rentals after the 9th of September 1914, the amount in metallic money shall be fixed in accordance with the equivalents to be fixed by the Department of the Treasury by circular.

II. Rentals after the date fixed by the preceding paragraph shall likewise be payable in metallic currency, in the proportions and under the conditions given below:

(a) With regard to commercial establishments, agricultural firms and all kinds of mercantile concerns or industries, rentals up to 50 pesos shall be reduced to 50 per cent thereof; those from 50 to 100 pesos shall be reduced to 75 per cent thereof; and rents of over 100 pesos shall be payable in full.

(b) With respect to residences, rentals of 30 pesos or less shall be reduced to 40 per cent; rentals from 30 to 50 pesos, shall be reduced to one-half, and those exceeding 50 pesos, to 75 per cent of the total.

ART. 8. Rental contracts in effect at the present time, stipulating paper money and bearing a date after that of September 9, 1914, shall be considered subject to cancellation at the request of either party thereto, with notice by one of the parties to the other of 60 days.

ART. 9. All rulings heretofore issued, which may conflict with the terms of this decree, shall be considered as modified in accordance with these provisions.]

ART. 8. As to the obligations to which this law refers, the moratorium is lifted, excepting in cases in which the creditors, debtors, or guarantors are: Charitable institutions, the Caja de Préstamos para Obras de Irrigación y Fomento de la Agricultura, the Caja de Ahorros y Préstamos de la Policía del Distrito Federal, as well as any other institution depending from the Federal Government, State governments, or municipalities, and official establishments of public instruction or similar private ones, with respect to the principal acknowledged in their favor, and under the following conditions:

ART. 9. The obligations referred to in fraction I, Article 1, of this law, shall be considered as having been contracted in silver currency, whatever may have been the terms in which the documents were drawn up, and with regard to these, the following rules will be observed:

I. Twenty-five per cent of the principal may be exacted, payable in national gold coin at par, without any reduction whatever.

II. The total amount of interest due from August 1913, inclusive to November 30, 1916, may be exacted, and shall be considered as due in paper money, payable in national gold at the rate of exchange in accordance with the table given under Article 10, fraction I of this law, using as a basis the rate in effect corresponding to the month in which the interest became due.

III. The total may be exacted on interest payments falling due prior to the month of August 1913, and on those which may have become due after November 30, 1916; these shall be payable at par and without any reduction.

IV. Payment may be demanded of interest falling due on and after December 1, 1916, on the unliquidated portion of the credit, payment to be made at par in national gold, without reduction.

ART. 10. As regards the obligations covered in fraction II of Article 1 of this law, the following rules shall be observed:

I. Twenty-five per cent of the principal may be demanded, payable in national gold based on the amount in gold which the debt may be reduced to after its conversion to metallic currency, taking as a basis the rate of exchange of the month in which the obligation was contracted, and giving to the paper peso a value in gold in accordance with the following table:

	1913	1914	1915	1916
January-----		.74	.28	.09
February-----		.69	.26	.08
March-----		.63	.22	.05
April-----	par	.58	.18	.07
May-----	par	.66	.17	.20
June-----	par	.65	.17	.12
July-----	.90	.62	.10	.10
August-----	.79	.53	.13	.07
September-----	.73	.40	.13	.05
October-----	.72	.40	.14	.03
November-----	.71	.39	.14	.015
December-----	.71	.37	.12	

II. Payment of the total amount of interest due may be exacted, as well as interest which in the future may become due on the unpaid portion of the principal; interest due up to November 30, 1916, shall be calculated on the amount of principal reduced to metallic currency at the rate of exchange in the month the contract was made, and on the basis of this calculation, the interest shall be reduced to metallic money at the equivalent of exchange corresponding to the month in which it became due. Interest charges falling due on and after December 1, 1916, shall be computed on the principal reduced to gold as stated, and without any further reduction.

ART. 11. With respect to the obligations covered in fraction III, Article 1 of this law, the following rules shall be followed:

I. As regards obligations in which express agreement was made as to payment in metallic currency, 25 per cent of the same may be exacted, as well as the total amount of interest charges already due and those which in future may become due on the unpaid portion of the principal. Both the principal and interest shall be payable in national gold at par, without any reduction.

II. As to obligations in which agreement was expressly made for payment in bank notes of a certain bank, 25 per cent of the principal and the total amount of interest charges already due or which may fall due in the future, on the unpaid portion of the principal, may be exacted. The principal shall be payable in national gold on the amount thereof after it has been reduced to metallic currency in accordance with the table of equivalents to be issued by the Department of the Treasury. The interest charges shall be payable in national gold after they have been reduced to metallic currency. If the agreement calls for payment in bank notes without any specific institution being

mentioned, the debt shall be considered as having been contracted in paper money and shall be subject to the stipulations of the preceding article.

ART. 12. Obligations in which express agreement is made to make payment in a foreign currency, whatever the period may be in which the obligation was assumed, shall be payable in national gold, at the exchange rate on the day the obligation becomes due, in conformity with the table to be issued every 10 days by the Department of the Treasury.

ART. 13. The total amount of the debt, including interest and principal, on which the moratorium is lifted under the terms of this law, shall be paid by the debtors, whatever may be the nature of the obligation, in four bimonthly periods, in each of which partial payment shall be made equivalent to the fourth part of the indebtedness for principal and interest; it being understood that the first payment shall be made within two months from the date of demand by the creditor on the debtor, or from the date of the sentence handed down by the court in cases of litigation.

ART. 14. The debts to which reference is made in fraction IV, Article 1, are subject to demand for payment in full as regards both principal and interest, and shall be payable in accordance with the terms of agreement in each individual case.

ART. 15. Deposits made by orders of any authority, as well as confidential deposits made in closed and sealed packages or sacks, provided that they were not made with the banks referred to in Article 6 of this law, shall be returned in whole upon demand for the delivery of same, with the intervention of the proper authorities in each case. With regard to deposits made in currency declared to be of illegal circulation, the depositary shall be obligated only to furnish proof to the depositor of the delivery of the said currency to the appropriate office for destruction.

ART. 16. Persons who, under their contracts, may have made deposits in paper money, may not be accused of procrastination.

ART. 17. In cases in which deposits may have been made in paper money covering any obligation, if the court sentence declares the deposit to be legal, the creditor shall be obligated to receive the paper money deposited or the certificate which, under Articles 18 and 20 of the law of payments of September 25, 1916, may exist in place thereof, but he shall receive it only at the value in national gold which it may have had on the date of deposit, in accordance with the table given under Article 10, and the debtor shall be obligated to pay the difference between the value thereof and the amount of the original indebtedness. Should the court sentence declare the deposit to be illegal, the same shall remain at the disposition of the debtor.

ART. 18. Subject to this law, are:

I. Cases of deposits, whatever the status of court decisions, even where a definite judgment may have been rendered but not carried into effect, provided that the said judgment does not state the kind of money in which the payment shall be made.

II. Payments tendered in the presence of the administrative authorities, civil or military, provided that the debtor has not received back the amount tendered.

ART. 19. Obligations guaranteed by mortgages on city or rural property which may be in the hands of rebels against the Government, may not be exacted, either as to principal or interest, while the said occupation exists.

ART. 20. Suits which may be initiated by the creditors for compliance with the provisions of this law, may be brought at once in the courts, but the final judgments shall in all cases grant to the debtor the right to make payments within the periods and on the bases established by this law.

ART. 21. In the case of sequestration for default in payment of interest, the property sequestered or given as a guarantee may not be disposed of or auctioned, excepting in cases where the income from the said property is insufficient to cover. In cases where the creditor proves that there exists a real danger that the property of the debtor may be disposed of or hidden for the purpose of avoiding compliance with the obligations under the moratorium, the court may accept measures looking to the adoption of precautionary action, subject to the provisions of common law.

ART. 22. Subject to the same provisions and upon the petition of interested parties, or their legal representatives, the excess obtained from auctions may be assured, when the same should be applied to cover obligations not subject to demand by reason of the moratorium.

ART. 23. The debtor shall be liable for 50 per cent only of court costs for the collection of principal or interest with respect to which the moratorium is lifted, or for safeguarding debts covered by the said moratorium.

ART. 24. The obligations in which life insurance companies appear as the debtors, creditors, or guarantors, shall be governed by this law, excepting in the case of obligations as between the company and the insured arising from the same insurance contract, which latter shall continue to be subject to Articles 2, 3, 4, 5, and 6 of the law of the 1st instant until such time as the moratorium on the principal is lifted entirely. Obligations in which other insurance companies appear as creditors, debtors, or guarantors, shall be governed by special laws.

ART. 25. Charitable institutions, the Caja de Préstamos para Obras de Irrigación y Fomento de la Agricultura, the Caja de Ahorros y Préstamos de la Policía del Distrito Federal, as well as all other institutions dependent from the Federal Government, from State governments, or from municipalities, and official establishments of public instruction or similar private ones, with respect to the principals acknowledged in their favor, may at their option in each case, based on the moratorium of December 14, 1916, either choose to exact or to make payment of the obligations referred to in Article 1, in which they may appear as creditors, debtors, or guarantors. Should they decide to exact or to make payment, they shall be subject to the provisions of this law, with the following alterations:

I. The obligations shall be subject to demand in whole, both as regards the principal and interest charges.

II. When the case covers a mortgage credit on rural properties, the amount of the indebtedness, including principal and interest, shall be paid by the said institutions or their debtors, as the case may be, in four bimonthly periods, making payment in each period of a part equivalent to the fourth part of the indebtedness for principal and interest; it being understood that the first payment shall be made within two months from the date of the demand by the creditor on the debtor or from the date of the judgment in cases of litigation.

III. In cases of mortgage credits on rural properties, the payment of 50 per cent of the indebtedness and of the interest due, shall be made in four bimonthly periods to be computed as in the preceding paragraph, and the remaining 50 per cent in two additional bimonthly periods, the total payment being made within one year.

IV. Charitable institutions may not elect in favor of the moratorium in obligations in which they appear as creditors, excepting with the express approval of the President of the Republic through the respective department or the governor of the State, as the case may be.

ART. 26. The debts of private parties in favor of the Treasury of the Federal Government, Federal District or territories, which do not arise from taxation but which have the character of civil obligations, properly so-called, emanating from agreements or contracts made by the Federal, local or municipal governments with private parties, shall be subject to the rules contained in the preceding article.

ART. 27. In all cases in which the meaning of this law is not clear, the authority handling the case shall draw up a record containing all pertinent data, a copy of which, with a report, he shall send to the Department of the Treasury in order that the latter may return a decision to clear up the question.

ART. 28. Anyone interested in the application of this law may consult the Department of the Treasury, making mention of the point in the provisions thereof which may appear doubtful.

ART. 29. As regards disputes between private parties arising from the application of this law, those interested may use administrative channels to secure a decision, and for this purpose they shall address a statement to the Department of the Treasury containing all necessary data, and the latter shall settle the dispute, on condition that both parties are agreeable to abiding by the decision, it being understood that should choice be made of the administrative channels, they may not afterwards apply to the courts.

TRANSITORY ARTICLES

I. Former laws and rulings which may conflict with this law, are hereby canceled.

II. This law shall go into effect from the date of its publication in the *Diario Oficial* of the Federation.

Therefore, I hereby order that same be printed, published, circulated, and that due consideration shall be given to it.

Given at the National Palace of the Executive Power in Mexico, on the thirteenth day of April, of the year one thousand nine hundred and eighteen.

V. CARRANZA [RUBRIC]

File No. 812.51/429a

The Secretary of State to the Ambassador in Mexico (Fletcher)

[Telegram]

WASHINGTON, April 25, 1918, 5 p. m.

997. Eben Richards, who is interested in the Pierce Oil Company and the National Railways of Mexico, and William H. Mealy, whom you doubtless know, called at the Department to-day to inquire what the attitude of this Government would be towards a loan by a private American banking group to the Government of Mexico. They stated that Mealy had been in close touch with Pablo Gonzalez and had discussed with him the circumstances under which such a loan might be made. The Department informed these gentlemen that this Government would look with favor upon a loan by private American bankers to Mexico provided the following considerations were borne in mind:

1. Mexico to guarantee that American vested property interests in Mexico should not be interfered with, for example, oil interests at Tampico;
2. A responsible tribunal to be set up by Mexico and the United States for the settlement of claims and provision to be made for the payment of adjudged claims in due course;
3. Loan to be purely a banking operation and not a method of obtaining concessions from the Mexican Government by American banking groups affiliated with oil and metal industries.

Department pointed out to these gentlemen that the policy of this Government was against intervention in Mexico and that the bankers should clearly understand that the approval of this Government to such a loan could not be used as an opening wedge to force intervention.

These two gentlemen expressed satisfaction with the attitude of the Department and stated that they believed both the Mexican Government and any group of American bankers who might undertake this transaction would be satisfied with the Department's position.

The above is sent to you for your confidential information and the Department would appreciate any comment you care to make.

LANSING

File No. 812.516/206

The Secretary of State to the French Ambassador (Jusserand)

WASHINGTON, April 29, 1918.

MY DEAR MR. AMBASSADOR: In further reply to your note of March 16, 1918, stating that it is the opinion of your Government that the latter part of Article 10 of the bill then before the Mexican Congress,

providing for the creation of the sole bank of issue, jeopardizes foreign capital invested in Mexico, and requesting that you be informed of the measures this Government considered it advisable to take in the premises, I beg to inform you that I do not consider the present time opportune to make representations to the Mexican Government in relation to the matter.

I am [etc.]

ROBERT LANSING

File No. 812.516/209a

The Secretary of State to the Ambassador in Mexico (Fletcher)

[Telegram]

WASHINGTON, June 21, 1918, 8 p. m.

1192. Please forward by mail list of funds seized under decree of September 15, 1916,¹ from Bank of London and Mexico and Banco Nacional, together with date of each seizure. Send similar information, if available, with reference to all other banks of issue. Report also disposition Mexican Government has made of such funds, especially those removed from banks controlled by foreigners.

LANSING

File No. 812.516/210

The Ambassador in Mexico (Fletcher) to the Secretary of State

No. 1167

MEXICO, June 26, 1918.

SIR: In reply to the Department's telegram No. 1192, June 21, 8 p. m., instructing me to forward a list of funds seized by the Mexican Government from the State banks of issue, the Banco Nacional and the Bank of London and Mexico, I have the honor to report as follows:

In my confidential despatch No. 427 of August 22, 1917,² enclosure No. 5, I reported that the total amount seized from the Banco de Londres y México, giving the dates of seizure, to and including August 15, 1917, amounted to 14,766,976.31 pesos. I have not been able to obtain any further information, in time to enclose it in this despatch, of amount seized since August 1917. However, the British representative is endeavoring to obtain the additional data required and I hope to be able to forward it in the next pouch.

In enclosure No. 3 of my despatch No. 427 of August 22, 1917, it was reported that 13,392,975.00 pesos had been seized from the Banco Nacional to and including June 25, 1917. The dates of seizure were also given. The French Chargé d'Affaires to-day informs me that 6,089,862.46 pesos have been taken from the bank since that date. He is not yet able to furnish me with the dates of seizure and amounts, but I hope to be able to forward this data shortly. The total amount taken from the Banco Nacional, from December 22, 1916, to date, appears to be 19,482,837.46 pesos.

¹ *Foreign Relations, 1916*, p. 641.

² Not printed.

In enclosure No. 4 of the despatch above referred to, I gave the amounts taken from the Banco Nacional which had been deposited in that bank by various State banks of Mexico, as 5,559,654.00 pesos.

The French Chargé d'Affaires has also furnished me with the following data, without dates of seizure, however, of the total amounts of gold and silver taken from the French banks in Mexico, including their deposits in the Banco Nacional, but not including the amounts taken from the Banco Nacional, since the beginning of 1916:

	Pesos
Banco de Zacatecas-----	559, 851. 00
Banco Mercantil de Vera Cruz-----	1, 020, 950. 00
Banco de Tabasco-----	407, 543. 62
Banco Oriental de México-----	6, 198, 779. 48
Banco Peninsular Mexicano, S. A-----	2, 980, 000. 00
Banco del Estado de México-----	1, 023, 949. 00
Banco de Guanajuato-----	717, 555. 69
Banco de Querétaro-----	505, 406. 00
	<hr/>
	13, 414, 034. 79

This amount, 13,414,034.79 pesos, added to the 19,482,837.46 pesos taken from the Banco Nacional, makes a total of 32,896,872.25 pesos taken from the French banks in Mexico since the beginning of 1916.

With the exception of some six million or more pesos worth of *pesos fuertes* which are reported to have been shipped to New York for sale, it is generally understood that the Mexican Government has devoted these funds so seized to covering the constantly recurring monthly deficits of the ordinary expenses of the Government, and that its present financial condition is largely due to the fact that no other similar funds are available.

I have [etc.]

HENRY P. FLETCHER

File No. 812.516/211

The Ambassador in Mexico (Fletcher) to the Secretary of State

No. 1183

MEXICO, July 2, 1918.

SIR: With reference to my despatch No. 1167 of June 26, reporting in part the amounts of money taken by the Mexican Government from the Banco de Londres y México, the Banco Nacional and State banks of issue, I regret to report that I have not yet been able to obtain that data promised in regard to the Banco de Londres. The British representative here informed me verbally to-day that the total taken from British banks in round numbers would amount to approximately 50,000,000 pesos. Additional data will be forwarded to the Department as soon as it shall have been received.

I have [etc.]

HENRY P. FLETCHER

File No. 812.516/212

The Ambassador in Mexico (Fletcher) to the Secretary of State

No. 1230

MEXICO, July 17, 1918.

SIR: Supplementing my No. 1183, of July 2, 1918, I have the honor to forward herewith a statement showing the dates, amounts, and

character of the specie taken from the Banco de Londres y México by the Mexican Government from January 17, 1917, to and including May 24, 1918.¹ This statement is identical with enclosure 5, of my confidential despatch No. 427, of August 22, 1917,¹ except that the present enclosure shows dates, amounts, and character of specie which has been taken from the bank since August 15, 1917. It will be observed that the total amounts taken from the Banco de Londres y México to May 24, 1918, total pesos 17,526,376.31.

Additional information will be forwarded as soon as it shall have been received.

I have [etc.]

HENRY P. FLETCHER

File No. 812.51/450

The Ambassador in Mexico (Fletcher) to the Secretary of State

No. 1374

MEXICO, September 4, 1918.

SIR: With reference to my despatch No. 959, of April 24, 1918, enclosing a translation of the law of payments of April 13, 1918, I have the honor to transmit, herewith, the text and a translation of circular No. 38 of the Department of the Treasury and Public Credit publishing certain decisions of President Carranza rendered for the purpose of facilitating the settlement of disputes between creditors and debtors concerning the amount of a debt under the terms of the law in reference.

I have [etc.]

HENRY P. FLETCHER

[Enclosure—Translation]

CIRCULAR NO. 38²

Certain doubts having arisen as to the proper interpretation of the law of payments of April 13, 1918, in connection with the obligations hereinafter referred to, the citizen President of the Republic has directed that the following necessary explanations be made to facilitate the solution of the disputes between creditors and debtors arising out of the fixing of the amount of an obligation in money.

These doubts refer to the following cases:

1. As regards stock companies organized prior to April 15, 1913, how payments should be considered which may have been made by shareholders in paper money under assessments decreed during the period such paper was in circulation, upon unpaid capital or covering new issues of shares made during that time; also the form in which payment should be made of balances in such companies in favor of certain shareholders for account of shares liquidated, expired, or canceled within the period April 15, 1913, to November 30, 1916, if the creditor has not made use of such amounts.

2. The amount of the capital of stock companies organized during the period paper money was in circulation, in relation to the payments made by shareholders to cover the amount of capital subscribed to by each; also the form in which liquidation should be made for amounts in such companies for account of balances in favor of certain shareholders to cover shares liquidated, expired, or canceled within the period April 15, 1913, to November 30, 1916, if the creditor has not made use of such amounts.

3. Moneys delivered under accounts current, in order to decide if they should be considered separately as special obligations subject or not to reduction by reason of the period and class of money in which payment was made, or if they

¹ Not printed.

² *Diario Oficial*, Monday, August 26, 1918.

should be considered as payments covered by Article 4 of the said law and, therefore, valid for their full face value without modification of any kind.

4. The value of documents of credit or *vales* (promissory notes) to bearer, issued without authority of the Government by private concerns, during the period April 15, 1913, to November 20, 1916, in order to estimate, in metallic currency, the amount which may be demanded for such documents; likewise the value of the so-called bank-to-bank checks, issued during the said period.

5. The fixing of the amount of an obligation emanating from a transaction of purchase and sale, and representing the price fixed for the same by the contracting parties, taking into account the reductions of money obligations established by Article 10 of the law of April 13, 1918, hereinbefore mentioned, which, according to the said article, should have as a basis the rate of equivalence for the month in which the obligation was contracted, and such equivalence refers to the value of paper money in metallic currency for the purpose of equalizing the amount received by the debtor in paper with that which the creditor should receive in metallic currency at the time of payment; and as such balance of values can not take place when the debtor did not receive paper money but received a movable or immovable object whose price represents the pecuniary obligation which the debtor should cover in metallic currency, in such cases the ordinary rule of money equivalents is not applicable and it is necessary to establish others which will be equitable and just, in accordance with which the debtor shall have to pay the true value of the object he received by virtue of the contract.

6. If the indebtedness of private individuals to State treasuries should be subject to the provisions of Article 25 of the law of payments.

7. If the obligations contracted expressly in Vera Cruz paper money after the month of April 1916 shall, for the liquidation thereof, be subject to the equivalences fixed by the table included under Article 10 of the law of payments, or if the said table should be considered as applicable only to obligations contracted in the so-called *infalsifiable* paper.

In virtue thereof, this Department, complying with the instructions of the citizen President of the Republic, has seen fit to decide:

I. As regards stock companies organized prior to April 15, 1913, there are included in Article 10 and relative articles of the law of payments of April 13, 1918, the money payments which the shareholders may have made in paper currency in connection with the assessments which may have been pending payment or which may have been decreed during the circulation of said paper for account of capital or of new shares issued; in consequence, the amount of such payments shall be fixed by reducing the nominal value thereof to metallic currency in accordance with the table of equivalences contained in Article 10 mentioned.

With respect to the assessments and subscriptions stated which are unpaid and should be covered, the same shall be paid by the shareholders in metallic currency at par. In such companies, the amounts which may exist as a balance in favor of some shareholder for account of shares liquidated, expired, or canceled in the period April 15, 1913, to November 30, 1916, if the creditor has not used such amounts, shall be liquidated by the company in conformity with the table given under Article 10. As regards shares which have not been liquidated, expired, canceled, or retired; that is, which are in effect, if the shareholder prefers to retain his right to the integral value of his share in national gold, the assessments paid by him at the time paper money was in circulation shall be calculated in conformity with the said table, and he shall be obligated to complete, in national gold the difference based on the value of the assessments paid by him. If the shareholder should have received such amounts, the payment shall be considered as coming within the terms of Article 4 of the law of payments of April 13, 1918.

II. The capital of stock companies organized during the period of paper money, comes within the terms of Article 10 and relative articles of the law of payments of April 13, 1918, and consequently, the amount thereof as well as the money contributions of each shareholder shall be fixed by reducing the value (nominal) of the respective amounts to metallic currency, in accordance with the table contained in the article stated. There are also included in said Article 10 and relative articles of the said law of payments, the obligations contracted by such companies in favor of shareholders during the period of fiduciary circulation, and which constitute a credit for liquidated shares, or shares which have expired or been canceled, in favor of the said shareholders.

Consequently, the amount of the said obligations shall be fixed by reducing the nominal value thereof to metallic currency, according to the table of equivalences contained in the said Article 10.

III. Payments made by either party in current account and partial payments corresponding to periods stipulated in contracts, are included in the precepts of Article 4 of the law of payments of April 13, 1918, and, therefore, are valid and unchangeable with respect to their nominal value, whatever kind of money payment may have been made in, unless it appears from the receipts, books, or correspondence on the subject, that it was the will of the parties to accept the said payment as an instalment subject to adjustment.

IV. It is decided that *vales* [promissory notes] to bearer, issued provisionally by concerns without authority of the Government, but without legal violation and only to cover transitory requirements of legal money in the payment of wages and other immediate demands, may be required to be paid in metallic currency, after being reduced to such currency in accordance with the provisions of Article 10; payment in like manner may be demanded in the liquidation of the so-called bank-to-bank checks, on condition that payment thereof should be demanded of institutions coming under the provisions of the law of payments of April 13, 1918.

V. As regards money obligations emanating from a transaction of purchase and sale, in which the subject of the indebtedness represents the price, neither the reduction nor the equivalences established by Article 10 of the law of payments, are applicable, excepting when both parties agree that such price was fixed in paper money, or when, in the absence of such agreement the courts decide that the price should be considered as in paper money and not as in metallic money. In case of doubt, the amount to be exacted shall be fixed by means of a valuation of the object sold to be made by experts named with judicial intervention in case the parties do not agree to another form.

VI. Under Article 25 and relative articles of the law of payments of April 13, 1918, is included private indebtedness in favor of State treasuries not originating from taxes, but which are in the nature of civil obligations, properly so called, emanating from agreements or contracts made by the said local governments or municipalities with private parties.

VII. Obligations contracted expressly in paper money of the Vera Cruz issue after April 1916 shall not be considered as included for the liquidation thereof in the table of equivalences inserted under Article 10 of the law of payments, inasmuch as the equivalences established in the said table, as from May 1916 inclusive, refer to the relationship between the so-called *infalsifiable* paper and national gold, but not to the Vera Cruz paper issue, which should be considered as having a value of ten to one with respect to the table for the *infalsifiable*.

I communicate the foregoing to you for your information and compliance therewith.

Constitution and Reforms. Mexico, August 16, 1918.

The Undersecretary in Charge of the Department,

R. NIETO

File No. 812.51/442

The Secretary of State to the Ambassador in Mexico (Fletcher)

No. 687

WASHINGTON, September 9, 1918.

SIR: The Department acknowledges the receipt of the Embassy's No. 1228 of July 17, 1918, with which was enclosed a letter addressed to the Secretary of State by George W. Cook of Mexico City, relating to the law of payments, decreed by President Carranza, April 13, 1918, partly lifting the moratorium for the payment of money obligations.¹

Reminding the Foreign Office of the representations made by your Embassy pursuant to the instructions contained in the Department's No. 504 of April 4, 1918, relative to the law of payments decreed

¹ Not printed.

December 24, 1917, you will state to the Foreign Office that in the opinion of the Government of the United States certain provisions of Articles 3 and 9 of the law of payments of April 4 [13], 1918, are open to objection on the grounds set forth in that instruction, namely, that they amount to an impairment of the obligation of contracts, thus working an injustice upon creditors; that they are retroactive in character, and as such violative, to the detriment of creditors, of the prohibition of Article 14 of the Mexican Constitution against giving retroactive effect to any law to the detriment of any person; and that they deprive creditors of their property without due process of law, thus working, by way of confiscation, an injustice, and also violating the prohibition of Article 14 of the Mexican Constitution, against such deprivation of property.

You will add that the provisions so deemed objectionable are those contained in Article 3 of the law, attempting to make null and void express stipulations contained in the evidences of certain obligations to make payment in metallic money, and the provisions contained in paragraph 2 of Article 9 of the law, with respect to the obligations entered into during the period of metallic money, that interest which accrued thereon from August 1, 1913, to November 30, 1916, inclusive, shall be considered to have accrued in paper money.

You will also inform Mr. Cook of the nature of these instructions, and say that the Department presumes that it is his intention to pursue his legal remedies with regard to such of his transactions as may be affected by the said law of April 30 [13], 1918.

I am [etc.]

For the Secretary of State:

ALVEY A. ADDE

File No. 812.51/482

The Ambassador in Mexico (Fletcher) to the Secretary of State

No. 1665

MEXICO, December 14, 1918.

SIR: With reference to the Department's instruction No. 687 of September 9, 1918, the contents of which were communicated to the Foreign Office on September 27, 1918, and to previous correspondence, relative to the laws of payments of the Mexican Government partly lifting the moratorium for the payment of money obligations, I have the honor to transnit, herewith, a copy and translation of note No. 3785 of November 7, 1918, from the Mexican Foreign Office, and of the enclosures mentioned therein, giving the reasons of the Mexican Government for issuing the said laws.

I have [etc.]

HENRY P. FLETCHER

[Enclosure—Translation]

The Mexican Acting Secretary of State for Foreign Affairs (Pérez) to the American Ambassador (Fletcher)

No. 3785

MEXICO, November 7, 1918.

MR. AMBASSADOR: In relation to my former note No. 3419 of the 8th instant [sic], regarding the laws of payments of December 24, 1917, and April 13 of this year, which annul in part the moratorium governing the payment of money obligations, I have the honor to state to your excellency that the Department of the Treasury has forwarded to me, in the nature of a report, a memorandum

and chart regarding the fluctuations of paper money, to which reference is made in the memorandum, of which I beg to attach a copy.

I avail [etc.]

E. GARZA PÉREZ

[Subenclosure—Translation]

The Mexican Department of the Treasury to the Mexican Acting Secretary of State for Foreign Affairs (Pérez)

MEMORANDUM

The Embassy of the United States of America under date of September 27, this year, addressed a note to the Department for Foreign Affairs,¹ in which, in obedience to instructions from the Department of State of the United States, it calls the attention of the said Department to the laws of payments decreed by the Mexican Government on December 24, 1917, and April 13 this year.² In the opinion of the Department of State, these decrees are open to objection with respect to two classes of obligations therein mentioned, to wit:

- I. Those which by their terms are payable in specie; and
- II. Those which, though payable generally without specifying the class of currency, were contracted in the period of metallic money, or prior to April 1913, and therefore intended to be payable in specie or in paper money equivalent in value. (It should be understood that the said paper can not be other than bank notes in circulation in April 1913, since the American Embassy can not refer to any other, and if it is called paper money, it is because this term in English has not exactly the same meaning as in Spanish.)

The objections which, in the opinion of the Embassy of the United States, should be made to the said laws of payments, with regard to these two classes of obligations, are the following:

First. They reduce, on the basis of fixed ratios of equivalence of paper money in national gold, the amount of interest and principal payable, and, therefore, amount to an impairment of the obligations of contracts, thus working an injustice upon creditors.

Secondly. They are retroactive in character, and therefore unjust and also violative of the provisions of Article 14 of the Mexican Constitution, to the detriment of creditors.

Thirdly. They deprive creditors of their property without due process of law, thus working by way of confiscation an injustice and also violating the following provisions of said Article 14 of the Constitution:

No person shall be deprived of life, liberty, property, possessions or right without due process of law instituted before a duly created court in which the essential elements of procedure are observed and in accordance with previously existing laws

The Embassy of the United States goes on to say that the criticism contained in the three preceding propositions is applicable to the precepts contained in Article 3 of the law of April 13, 1918, which article attempts to make null and void express stipulations contained in the evidences of certain obligations to make payment in metallic money; and also to the provisions contained in paragraph 2 of Article 9 of the said law, with respect to the obligations entered into during the period of metallic money, which establishes that interest which accrued thereon from August 1, 1913, to November 30, 1916, shall be considered to have accrued in paper money.

In effect, Article 3 of the law of payments of April 13, 1918, says:

With respect to obligations assumed during the time fiduciary currency was in circulation, or which may have been renewed during such period, the fact that payment in metallic currency was indicated shall not be considered as an express agreement, when the said stipulation is contained in printed skeleton or blank contract forms, and in cases where the debtor may have received paper currency or bills even though the document states that payment shall be made in metallic money. The stipulation that payment shall be effected in currency which may be in circulation shall be considered only as an obligation to pay in money of legal value,

¹ Not printed.

² For translations of these laws see *ante*, pp. 638 and 646.

but the amount of the debt shall be reduced to metallic currency at the rate of exchange in effect on the date the obligation was assumed, in accordance with the table shown under Article 10, Fraction I, of this law.

On the other hand, paragraph 2 of Article 9 of the said law, reads as follows:

The total amount of interest due from August 1913 to November 30, 1916, inclusive, may be exacted, and shall be considered as due in paper money, payable in national gold at the rate of exchange in accordance with the table given under Article 10, Fraction I of this law, using as a basis the rate in effect corresponding to the month in which the interest became due.

In conclusion, the Embassy of the United States informs the Department for Foreign Affairs that it has received instructions from its Government in the sense that it state to the Mexican Government, that it can not be expected that that of the United States will recognize the right of the Mexican Government to apply the objectionable terms of the said decree to citizens of the United States; and that it will so advise those American citizens who seek its advice.

The Department for Foreign Affairs, in transcribing the foregoing note to the Department of the Treasury, requests its opinion on the subject.

Before examining the criticism of the laws of payments made by the Embassy of the United States, and before stating the reasons for the issuance in concrete of the articles to which special objection is expressed by the said diplomatic mission, it is expedient, in order that the Department for Foreign Affairs may have a clear idea on the subject, that an outline be given of the general bases upon which the said laws of payments were issued, as well as of the social necessity and justice which warrant them.

The phenomenon of the circulation of paper money assumed among us an extraordinary character, distinct from that arising at other times and in other countries.

It would not be superfluous to give a brief synopsis of the ordinary process governing the circulation of paper money, with a view to noting the peculiar features of that phenomenon experienced by us, which will explain the necessity and justice of our laws of payments, considered from a general point of view.

The very essence of paper money is that all obligations existing prior to its issuance may be paid in the currency emitted by the Government as of forced acceptance. Moreover, the laws creating paper money have everywhere and at all times been retroactive in their effects, in the sense of declaring null and non-obligatory the evidences of private contracts whereby it is agreed beforehand that the said paper will not be used, and the obligation is assumed of paying exclusively in gold or silver coins. Numerous examples could be cited in support of this statement; but it is unnecessary to do so, as it is obvious that if paper money did not serve for the payment of contract obligations previously entered into, it would then not be of forced acceptance, and would fail in its fundamental object, which is that of forcing a sort of involuntary loan upon society, since it is compelled to accept the paper, not by reason of the credit enjoyed by the State, but by reason of its ability to force its acceptance. A paper money which would not serve to comply with preexisting obligations, could not be defined as such paper money. The retroactive nature of the laws establishing the same has at all times been based on the belief that they contain precepts applicable to the public at large.

The depreciation of paper money which almost always takes place is, as a general rule, gradual, extending over long periods of years; and even though in the process brusque downward movements are frequently noticeable, there are also upward movements, and the tendency to depreciation can not be said to be continuous and marked, and there are cases, even, when after heavy depreciations, the paper has gradually regained more or less its value.

In that manner, the decrease and increase in value of paper money, extended over long periods of time, take place in a manner almost imperceptible among the different members of society, which means that commercial and industrial conditions and obligations in general adapt themselves little by little to the new conditions created by fiduciary currency.

Within this law of gradual normal depreciation, so to call it, the obligation to pay, which, as has been seen, can be fulfilled under legal ruling by means of paper money, presupposes the delivery of a value which on the average does not vary considerably from the real value received by the debtor, especially

with regard to short-term transactions. And this is more clearly seen once the great crisis, which is always brought about by the first depreciations of paper, has passed. The obligations subsequently assumed, in paper, are payable also in paper, and even when between the time the agreement is made and the time for the compliance thereof, certain differences may exist in the value of the circulating medium, these differences are not very great and they compensate each other.

Under the shadow of paper money, powerful business interested in its conservation arises; or, at least, interested in not having it disappear suddenly; and thus, the disappearance of the paper is brought about through a gradual rise in value, similar to its initial depreciation, either by means of special institutions of conversion, or because the measures of the Government looking to the future redemption of the paper, create the confidence essential to a rise in value.

In our case, the process with regard to paper varied distinctly from the normal process in other countries, having more the appearance of the French assignats issued during the Revolution; and yet, great differences are apparent between the assignats and our paper with respect to the duration of the process, a detail which is of the greatest importance, as upon it depends the adaptations before mentioned. The exceptional phenomena of our paper can be synthesized as follows:

1. The paper remained in circulation a very short time. Of all the cases of paper money recorded in the history of finance, Mexico's is perhaps of the shortest duration; having appeared in July 1913, the paper disappeared in November 1916; that is to say, it lasted only three years and five months, an insignificant length of time.

2. The depreciation of our paper was extremely brusque, and rapid in the extreme, with hardly any fluctuations. It may be said that, generally, the curve of depreciation is constant and is notable month to month. While in other countries depreciation has been gradual and in many cases compensated by rises in value, amongst us the said depreciation was constant, marked, and very brusque, without the depreciations counteracting, excepting on very rare occasions, the effects thereof.

A chart accompanies this memorandum showing the depreciation of our paper money.¹ An examination of this chart will prove the truth of the statement made in this paragraph.

3. Our paper did not, as in many other parts, end by conversion, nor by an increase in value, nor because the Government withdrew it from circulation in exchange for some other fiscal value.

Our paper lost value with a rapidity never seen elsewhere; in a short time it lost almost its entire value, and at last was demonetized; therefore, it represents a loss distributed proportionately throughout society. The Mexican paper thus disappeared from circulation by virtue of the loss of its purchasing power, and was brusquely substituted by gold money.

4. The country's political conditions prevented business from adapting itself to the monetary conditions created by the paper. During so intense a revolutionary period as ours, it was not possible that great business be established and developed; and it was natural that very few interests should have been created in the paper period.

5. The very rapidity of the paper phenomenon, its brusque and almost uninterrupted fall, and its final disappearance, likewise prevented the formation of great interests in its behalf.

As may be seen, the difference in the situation of our country upon its emerging from the paper period, as compared with other countries may be established by stating that, while in other countries paper money has on occasions become a fixture, so to speak, in ours it passed like a flash, without having incorporated itself in the economic constitution of the country, and without seriously affecting business.

In view of the preceding circumstances, various problems arose:

(a) Would it be just that obligations assumed in a currency representing, say, less than one one-hundredth of its face value, should be made payable at par in gold money?

(b) Would it be just that obligations at different times during that violent depreciation should all be made payable at the same rate and at the same equivalents?

¹ Not printed.

(c) Would it be just that obligations which by reason of the law ought at maturity to have been paid in paper more or less depreciated in value, should be made convertible into gold at par, for the mere reason that the same were not paid at maturity?

(d) Could a series of obligations assumed or perfected in times of terrible political and monetary confusion, whose characteristics could not have been foreseen by civil legislation, be allowed to remain in a chaotic state, so to say, without clear and precise legislation?

The simple mention of these questions, together with the historical *résumé* given, demonstrate the urgent necessity which existed of enacting some sort of civil legislation which would bring order out of such confusion, and of establishing a solution of the thousand different cases which might arise. It was, therefore, absolutely necessary to issue laws of payments, as they have been called; and whatever errors may be contained in these laws, their expediency is realized when it is considered that any method whatsoever which will do away with a chaotic situation, enable a multitude of extremely complicated points to be decided, and assist in establishing order and a clear understanding in the relations of men, is a highly recommendable and beneficial policy.

The dominant ideas in the laws of payments referred to in this study, may be summed up as follows:

First. The paper money régime, which ended in November 1916, must necessarily be recognized in all its legal, economic, and natural consequences. While the rapidity with which the régime disappeared had prevented, as has already been said, the national economic system from remodeling itself upon a paper-money basis, there is no doubt that a multitude of obligations had originated or been perfected during the period of that régime; and it would have been an injustice to have ignored the existence thereof in issuing laws regarding the manner of adjusting such obligations. The paper money constituted a fact which civil legislation could not ignore in future, especially so since that fact was the result of the express will of the legislator, who sanctioned it on many occasions. The law, therefore, could not, without committing a grave injustice and without giving proof of gross ignorance, forget that during three and a half years paper money had been the monetary system of the Republic.

Secondly. In view of the extremely pronounced variation in the value of paper money during the short period of its existence, it may be said that Mexico did not have in these three long years a true monetary standard, but that the unit was constantly changing; consequently, it would not be venturesome to assert that during the paper régime we had from 30 to 40, or more, monetary standards. It would, therefore, have been most unjust and contrary to reality to consider the paper as a homogeneous unit; it was thus essential to make up equivalence tables which, interpreting actual facts as closely as possible, would, as regards contract obligations, permit of arriving at the true monetary standard applicable to each individual month during the paper period.

Thirdly. During a period of such extreme monetary instability, money loses in great part one of its principal functions, which is that of serving as an instrument of comparison. A peso in January 1914, for example, was entirely different from a peso in November 1916. Obligations, therefore, represented very distinct values depending upon the moment of their birth or modification; and the laws of payments had for their purpose arriving at a means for future compliance with such obligations, not according to the face value thereof, which has no connection with the value of our gold money, but according to the real value they represent, or at least, the said real value as closely as it can be estimated.

The foregoing explanations, while succinct, demonstrate the theoretical justice of the law of payments, the provisions of which had for their purpose the avoiding of the injurious effects brought about by the establishment of a paper régime, from being repeated as a result of its disappearance. Inasmuch as, to define, no system of paper money can prevent the commission of certain injustices, since the existence of the paper is, clearly, a social evil, and creates as a consequence, social suffering, the State should, on the other hand, endeavor to avoid a repetition thereof as a consequence of the exit of the paper, and this is what the laws of payments have done. It seems unnecessary to emphasize the importance of these laws from the social point of view, which is fully realized simply by bearing in mind that they have come to put a stop to a state of confusion, in regard to which none of our principles of legislation previously existing served as a guide to govern legal justice.

The foregoing considerations illustrate the purposes and justification of the laws of payments; and will assuredly facilitate the explanation of the concrete points objected to by the Embassy of the United States. The first objection refers to Article 3 of the law of payments of April 13, 1918, transcribed at the beginning of this memorandum. This article may be divided into two propositions:

I. Agreements to pay in metallic currency, incorporated in skeleton forms or printed documents, called *de cájon*, have no value, with respect to obligations assumed during the period of fiduciary money circulation, when the debtor may have received paper or bills, even though the document should specify payment in metallic currency.

II. The agreements entered into during the period of fiduciary circulation stipulating only that payment would be made in the money circulating at the termination thereof, are considered by the law as simply productive of the effect of payment in money of legal value, reduced to metallic currency at the rate existing at the time the transaction was closed, in accordance with the equivalence tables established by law.

Before entering upon a defense of these two points, it is expedient to explain the reasons for the law, in order that it may not appear that such important rulings in civil law as those mentioned have been inspired by caprice.

It is known that, with respect to certain contracts, the custom among us is to utilize printed standardized forms or skeleton blanks, which are commonly on sale at small notions stores, and which generally are signed, without being read, by those interested. These standardized forms, based upon wording adopted long before the establishment of the paper money régime, contain, among many other stock clauses, the renunciation of the right to pay in paper money, and contain the obligation to make payments in gold or silver specie.

During the paper money period, people could not suppose, and much less foresee, that the fiduciary specie would disappear brusquely and be substituted by gold and silver; and as the laws governing the issuance of paper granted to debtors the right to pay their obligations in this money, even though the agreement may have been gold or silver, and as, furthermore, paper money was of forced acceptance, without discount, for all classes of payments, it can be readily seen that the parties interested, in case they noticed the said clauses, gave them no importance, as they could not imagine the brusque and incredible change which was to take place as regards the circulating medium.

The change took place, and then, obligations initially assumed in paper and deriving their being from the said paper (but made payable in gold and silver by virtue of a clause to which the debtor gave no attention, and the possibility of which did not enter his mind), were suddenly increased to a sum immensely greater than the value thereof. Nothing could be more unjust.

In view of such injustice, the law purposed to interpret the intention of creditors as well as debtors; and in so doing established that, when the debtor actually received paper money, it should not be considered that he obligated himself to pay in something different from that which he received, notwithstanding evidence to the contrary consisting of the fact that he signed a standardized form, for the reason that the facts, the practice, and the customs of the place all agree in that the said forms are generally signed without being seen, read, and even without a superficial knowledge of their contents. The law, therefore, sought justice, ignoring formulae. If a person delivered bills at a given time, the law does not injure him, as it commands that he be given in return an amount in gold equal in value to what he delivered.

The explanation of the second part of Article 3 consists in the necessity of interpreting those clauses in which the interested parties stipulated that in complying with the obligation payment would be made in the money in circulation at a future date. As the interested parties could not foresee the brusque and unexpected disappearance of paper money, it is clear that the employment of the phrase circulating medium must refer to the paper which might be in circulation at the time the obligation was to be paid; and the law, interpreting the purposes the parties had in view, has formulated this definition with a view to avoiding the injustice which would result were he who received paper with a value of one centavo national gold on the peso be forced to repay the same on the basis of one hundred centavos national gold on the peso; that is to say, ten thousand per cent more than he received.

The foregoing explanations make manifest the reasons for the existence of the law, its purposes, and its justification; they prove that the charge made by

the Embassy of the United States that Article 3 of the law of 1918 is unjust is absolutely untenable.

Justice, as regards transactions in which in one form or another money is involved, consists in that the value received by the debtor be equal to the value returned by him to the creditor. This is what the law of payments seeks. The contrary would, precisely, be injustice; as there is no doubt that no honest opinion would sustain that justice consists in that, for example, if a debtor received in specie equivalent to say seventy-five ten-thousandths of a gram of pure gold, he should be obligated to pay a hundred fold; that is, seventy-five one-hundredths of a gram of the same metal.

The second charge made by the Embassy of the United States against the legal precepts stated, has reference to the retroactive nature thereof.

Referring to the first part of the precept; that is, to the nullification of the stock clause contained in printed blanks relative to payment in gold or silver of obligations assumed in paper, the charge is, to say the least, surprising, that the legislator of 1918 is guilty of establishing the retroactive principle, in view of the fact that the law of payments, in its Article 3, does not establish any new precept, but simply reproduces and confirms precepts already existing, decreed a long time previously.

In effect, the decree issued at Hermosillo on December 28, 1913, by the First Chief of the Constitutional Army, by virtue of which the interior debt created by decree of April 16, 1913, was increased, states in Articles 3 and 4:

ART. 3. The bills shall be of forced acceptance for the value they represent; therefore, the public offices of the Federation and those of the States, as well as all establishments, companies, and persons, shall be obliged to accept them in payment of amounts owed to them, without any limitation whatever.

ART. 4. The provision of the foregoing article is not subject to renunciation. Consequently, any stipulation to the contrary shall be absolutely null and void, and therefore, Articles 1453 and 2690 of the civil code of the Federal District are annulled.

It is easy to see that Article 4 of the said decree of December 28, 1913, proposed to govern future transactions and declared the nullity of all stipulations in agreements renouncing the right to pay an obligation with paper money and freeing the creditor of the obligation of receiving the same.

In effect, there is no doubt that Article 4 refers to the future, for the reason that in stating that the provisions of the law are not subject to renunciation, it is clear that its intention is to govern transactions to be entered into at a future time, since no law can be renounced prior to its becoming effective.

Then, again, Article 4 annuls agreements wherein a debtor and a creditor might agree to liquidate an obligation contracted during the paper period by means of any tender other than paper, such as an obligation to make payment in gold or silver to the exclusion of paper.

The agreements referred to in Article 3 of the law of payments of 1918 are the same ones declared to be null and void by the decree of December 28, 1913. The law of payments refers to those express agreements to pay in metallic currency and not in paper which appear in printed documents, entered into with reference to obligations assumed during the period of fiduciary circulation. On its part, the law of 1913 refers to express agreements to pay in metallic currency to the exclusion of paper, contained in all classes of documents, and entered into with reference to obligations contracted during the period of fiduciary circulation. As may be seen, the identity is complete between these two laws, but that of 1913 is even more ample than that of 1918, because whereas the former declares the nullity of all classes of agreements, the latter refers only to those entered into by the use of printed blanks or standardized forms. With respect to the charge that the law of 1918 is retroactive in its effects, no further argument is necessary than that, in conformity with the law of 1913, such agreements were already absolutely null and void, so that it is not the law of 1918 which has deprived them of their value. Such agreements were valueless from the moment they were entered into, and the law of 1918 is limited to recognizing a juridical fact consummated in conformity with previous laws.

In order for the law of 1918 to be retroactive, it would be necessary that it refer to agreements valid from the moment they were entered into; but as can clearly be seen, it refers to agreements which from that moment were abso-

lutely null and void. The charge, therefore, can only be explained by the circumstance that the Embassy of the United States did not have before it the decree of December 28, 1913.

As regards the second question, relative to obligations which it was agreed would be paid in the currency which might be in circulation, the law is also not retroactive, since such agreements could not, closely analyzed, have for their object payment in any money other than paper, since neither the debtor nor the creditor could renounce the right to liquidate the obligation in such currency, by virtue of the prohibition to make such renunciation contained in the law of 1913 to which I have referred. Circulating money could not at that time refer to anything excepting paper money, since any other definition of the precept would amount to an agreement of renunciation, which would be absolutely null and void.

There is another reason why this second part of Article 3 can not be attacked as retroactive. The purpose of the law is, in effect, simply that of interpretation, and it is well known that laws of this nature are retroactive always without prejudice to anyone, since they do not alter existing juridical conditions: they simply make them clear.

If, therefore, the provisions of Article 3 of the law of payments of April 13, 1918, are obviously just and without retroactive effect, since they do no more than confirm the provisions of previously issued laws, the third charge against the said precept made by the Embassy of the United States is without force, since it can not be said that the law of 1918 deprives creditors of a right which the said creditors have never had.

Let us now examine the arguments of the Embassy of the United States with regard to the second paragraph of Article 9 of the said law of payments of 1918, according to which, as regards obligations assumed prior to April 15, 1913, that is, during the period of metallic circulation, interest which accrued thereon from the month of August, 1913, inclusive, to November 30, 1916, shall be considered as having accrued in paper money and shall be subject to payment in national gold at the equivalent fixed by the respective tables contained in the law.

Following the method employed in the preceding article, it is expedient that this precept be examined in the light of the three concrete arguments brought forward by the Embassy of the United States.

During the existence of the laws relating to paper money, it happened that in cases where the debtor made payment of interests accrued on his indebtedness at the precise moment they became due, the said debtor fulfilled his obligation by making payment of paper money in circulation at par with respect to its face value. If the said debtor for any reason, failed to make payment and the creditor did not wish or could not make collection, there is no reason why, simply because a period of time has transpired, the obligation which, had it been fulfilled at the proper time, would have represented a certain specified value in gold, should represent now, without any further reason than that of delay, a value which might be a hundred times greater. Simple delay is not a reason strong enough to alter profoundly the nature of the obligation and the manner of its fulfilment; and justice dictates that the true value of obligations should be computed on the basis of the exact moment of their assumption and not on the basis of the moment they chance to be fulfilled. Now, the payment of interest charges can not be exacted juridically, and, therefore, the obligation to pay does not exist until the date fixed for interest to become due has expired. Even when an agreement governing interest is made at the same time as the obligation covering the principal, the same does not become due at that same moment, but accrues gradually in proportion as the periods set for the payment thereof expire. Interest accrues, therefore, during the monetary régime existing at the moment the same becomes due; and thus it is that those which became due during the time of paper money are payable in that currency. It is not just, therefore, that payments be made in specie having a value very much greater than that in which they became due.

The charge that the precept in question is retroactive, likewise does not apply. It has been said already that the very essence of paper money is that it is retroactive in character, and that it has been so considered everywhere. In effect: the law of December 28, 1913, imitating in this all the laws given out in all parts of the globe with respect to paper money, and reproducing the precept of the law of April 26, 1913, establishes that the bills are of forced circulation at their nominal value, and that everyone is obligated to receive

them in payment of debts. This principle governed throughout the period of paper money, and the law of payments could not ignore it, nor could it prevent the natural results thereof. The law of payments can not be accused of being retroactive, since it does no more than recognize the existence of a juridical situation created by previous laws establishing paper money. Should any retroactive effects exist, they are to be found in previous laws: That of April 26, 1913, and the one of December 28 of the same year, but not in the law of payments which found a situation already created, and which limited itself to recognizing the same.

As regards the retroactive effects of the laws of 1913, this does not appear to be an appropriate time to discuss the same, since the said laws have never been objected to; but should occasion offer, the true doctrine in their regard could be established.

The foregoing considerations demonstrate that the objections made to the laws of payments have been formulated without a perfect knowledge of the question, which is justifiable due to the fact that they come from a source that, being foreign, could naturally not be expected to have a thorough knowledge of our legislation; nor, perhaps, could it be expected that it should make a profound study of Mexican law. This memorandum has demonstrated, not only the reasons of a public order which the Executive of the Union had in view in issuing the laws of payments, but also the innocence of the said laws with respect to the charges made against them. The precepts of those laws are essentially just, they are not retroactive in their effects, and, therefore, they do not take from anyone that which of right belongs to him.

The foregoing ideas may serve as a basis for the report to be submitted to the Department of Foreign Affairs, as requested.

MEXICO, October 21, 1918.

PROTECTION OF AMERICANS AND AMERICAN INTERESTS¹

File No. 312.11/8523

The Consul at Guaymas (Simpich) to the Secretary of State

[Telegram]

GUAYMAS, January 3, 1918, 3 p. m.

Referring my December 19, 10 a. m.² State Government took no action to secure additional troops and yesterday's unspeakable massacre occurred. Women and children were cut to pieces with knives, girls were stripped naked and carried into captivity within an hour's ride from Empalme where hundred or more Americans live and where no garrison at all maintained. No aggressive movement has yet been started against the Indians since plans of campaign were [omission] in August. Absolutely no attempt has been made to follow and punish them. After these raids I urgently recommend that Department refuse absolutely any more passports for Mexican west coast points south of Hermosillo where bearers plan coming in by train. Also recommend again that naval vessel be kept in these waters. Would it not be possible to have Navy modify its orders to its commanders allowing them to land armed force Guaymas or Empalme in case Indians attack and endanger Americans? Last commander in here stated that even should Yaquis attack Empalme he would be unable land account lack authority. Embassy not advised.

SIMPICH

¹ See also "Protection of American oil interests," *post*, p. 687.

² *Foreign Relations*, 1917, p. 1036.

File No. 812.00/21613

The Secretary of State to the Chargé in Mexico (Summerlin)

[Telegram]

WASHINGTON, January 4, 1918, 8 p. m.

681. Consul, Guaymas, telegraphs that on January 2 Southern Pacific southbound train was attacked by 800 Yaqui Indians near Empalme, about 36 persons being killed and same number wounded. Following Americans were killed or wounded: Henderson G. Poe, killed; Ralph R. Stoval, probably fatally wounded; Albert Jofferoy, seriously wounded; A. Suarez, believed among unidentified dead.

A telegram just received from Consul reads in substance as follows:

State Government took no action to secure additional troops and yesterday's unspeakable massacre occurred. Women and children were cut to pieces with knives, girls were stripped naked and carried into captivity within an hour's ride from Empalme where hundred or more Americans live and where no garrison at all maintained. No aggressive movement has yet been started against the Indians since plans of campaign were announced in August. Absolutely no attempt has been made to follow and punish them.

Immediately acquaint Mexican Government with foregoing and urgently request that prompt steps be taken to suppress Indians in Sonora, and at same time call Government's attention to Embassy's previous representations to the effect that Americans in Sonora were in danger of attack by said Indians because of inadequate military protection. Add that this Government expects that energetic action will be taken to cope with the situation, and that adequate and permanent garrisons will be stationed at points of danger to travelers and settlers. Request to be informed of action taken by Mexican Government, and telegraph.

LANSING

File No. 312.11/8525

The Chargé in Mexico (Summerlin) to the Secretary of State

[Telegram]

MEXICO, January 5, 1918, 10 a. m.

671. Department's 660, December 22, 7 p. m.¹ Foreign Office informs me that the military commander in the region of Yaqui Valley had been ordered to afford protection to the persons and property of American citizens commensurate with the exigencies of the campaign.

SUMMERLIN

File No. 812.00/21613

The Secretary of State to the Chargé in Mexico (Summerlin)

[Telegram]

WASHINGTON, January 5, 1918, 6 p. m.

685. See Department's 681, January 4, 8 p. m. You might suggest as a solution of the grave Yaqui situation that Mexican Govern-

¹ *Foreign Relations, 1917*, p. 1037.

ment immediately send force of approximately 5,000 troops to Sonora to restore order and garrison danger points. You may intimate that you can secure passage over American territory for such an expedition.

LANSING

File No. 812.00/21637

The Chargé in Mexico (Summerlin) to the Secretary of State
[Telegram]

MEXICO, January 9, 1918, 11 a. m.

683. Department's telegram 685, January 5, 6 p. m., and Embassy's 678 January 6, 10 p. m.¹ I have just received *note verbale* from Acting Minister for Foreign Affairs dated 8th instant, merely stating that the suggestion has been referred to the Subsecretary of War and Marine for such action as he may deem opportune.

SUMMERLIN

File No. 812.11/8523

The Secretary of State to the Consul at Guaymas (Simpich)
[Telegram]

WASHINGTON, January 10, 1918, 7 p. m.

Your January 3, 3 p. m., latter part. Situation at Guaymas is complicated by attitude of local authorities in matter of neutrality. Therefore, to avoid development embarrassing situation, Department not at present disposed to recommend to Navy that vessel be stationed at Guaymas. According to Department's information, policy of Navy is not to permit landing trained personnel of war vessels except in case of urgent necessity for protection American life. However, if Americans at Guaymas should be in dire distress, this Department would give consideration to advisability sending Marines to Guaymas.

LANSING

File No. 812.00/22028

The Acting Secretary of State to the Ambassador in Mexico (Fletcher)
[Telegram]

WASHINGTON, June 7, 1918, 5 p. m.

1144. Department officially advised that a band of Yaqui Indians on May 20 drove off a large number of horses and cattle from a ranch 20 miles north of Guaymas and that a few days thereafter another band attacked farms in vicinity Potam, Sonora, killing a number of Mexicans and driving off livestock. Although no loss of American life or property is reported, it is feared Americans in Yaqui Valley and its vicinity will suffer if these bands of Indians are not dispersed.

Bring foregoing seriously to attention Mexican Government.

POLK

¹ Not printed.

File No. 312.115/341

The Consul at Tampico (Dawson) to the Secretary of State

No. 466

TAMPICO, August 5, 1918.

SIR: Referring to my several despatches to the Department on bandit outrages during the past year in this consular district, I have the honor to transmit herewith descriptive statements of such outrages and holdups throughout the Tampico oil fields, chronologically arranged from August 15, 1917, to June 30, 1918.

Mr. C. W. Hamilton, local manager of the Mexican Gulf Oil Co. (an American concern), has just returned from the United States. He informs me that in conversation with Department officials at Washington the Department expressed surprise at the large number of outrages as reported by him.

It is true that this office has not reported every little incident that occurred. Many of them were of too trivial a character to bother the Department with; others were not reported to the Consulate by the companies involved. Furthermore, banditry has become so rife all through this territory that it has largely ceased to be the subject of comment and is accepted as a part of each day's experiences, even within the limits of the city of Tampico. It is so accepted by Government and Army officials.

Under the circumstances it is only natural that simple robberies, or threats against life, have ceased to be considered worthy of notice, and that only actual assaults on persons, causing serious wounds or the loss of life, bring home to us the seriousness of the situation.

Since the above list was prepared three more outrages have occurred, as follows:

Mr. A. W. Stevenson, American, was shot and killed in the southern oil fields (as reported to you by telegraph) because he refused to open the company safe. The bandits have not been captured.

The Mexican Gulf Oil Company's paymaster was robbed August 2 as per report mailed in despatch No. 464 of August 3, 1918.

Seventeen bandits attacked the Island Oil and Transport Company's camp at Palo Blanco, August 1, 1918, stealing a considerable amount of commissary supplies.

I have [etc.]

CLAUDE I. DAWSON

[Enclosure 1]

Descriptive statements of bandit outrages and holdups throughout the Tampico oil fields, chronologically arranged

EAST COAST OIL CO.

August 15, 1917, about 11 p. m., a party of eight bandits came into camp at Station "A" near Panuco. They came first to the dining room where they took two Americans who were eating there and marched them down to the house occupied by Mr. F. S. Hurd, field foreman, where they made a demand for money, arms, and ammunition. The bandits entered Mr. Hurd's house and went through everything, and turned everything upside down, and partly wrecked his furniture and personal belongings. They found a few pistol shells and demanded the revolver to go with them, and when Mr. Hurd advised them he did not have the gun, they hit him over the head with a rifle. They also

treated Professor Cummins in a very rough manner. The bandits took \$500 worth of personal belongings from Mr. Hurd, \$175.44 United States currency from the company's safe, \$70 United States currency, watch and personal belongings from Professor Cummins, two horses, and two American saddles.

On September 1, 1917, Mr. J. F. Barbour and Mr. Geo. Blardone went out on pipe line Brecha for the purpose of paying off the men, and having had advance information that bandits were looking for the pay roll, they followed a route not used before, and succeeded in paying off the men without being held up. However, after paying off, and when they had reached a point 7 kilometers from Topila, 7 bandits held them up on the Brecha and robbed them of \$81.25 United States currency of company's money, \$19.95 personal money, 3 mules, and 3 saddles.

THE AGUILA Co.

September 4, 1917, bandits entered Bustos pump station and stole articles belonging to employees valued at \$199.60.

September 29, 1917 about 7.50, Paymaster J. Hess, on board the launch *Afridi* while on his way to pay off camps, was held up and robbed of \$23,406 Mexican gold (mostly American bills), at kilometer $\frac{7}{8}$ on the Chijol Canal. The bandits started shooting as soon as the launch came in sight, ordering crew to stop. Four bandits came out of their hiding places in the bush and boarded the launch, ordered the paymaster to turn over the funds he had. The safe containing the money was then taken ashore by the robbers and the crew told to continue the journey and not try to go back to Tampico. A few more shots were fired after the boat, but fortunately did not hit any of the passengers. Besides the paymaster, there were on board the *Afridi*, the pilot and the engineer.

October 6, 1917, the Los Naranjos camp was requisitioned for material and stores to the value of \$109.52.

October 6, 1917, Potrero was visited and stores and provisions and materials amounting to \$246.95 stolen.

November 10, 1917, Los Naranjos again visited and provisions and materials amounting to \$245.23 stolen.

EAST COAST OIL Co.

November 17, 1917, a force of men came into the camp at Station "A", Panuco, claiming to be Pelaexistas, they demanded that company's safe be opened and secured \$87 United States currency. They took five mules, saddles, and commissaries to the value of \$500 United States currency.

MEXICAN GULF OIL Co.

November 24, 1917. On this date Messrs. Rox Underwood and Ed. Anderson, while traveling in a Ford automobile carrying the pay-roll money to the construction camp, were suddenly fired upon from ambush at a point one kilometer south of the crossing of the Panuco Valley Railway of our pipe-line right of way, about 10 miles from Tampico. There then appeared armed men, both in front of them and behind them on the right of way, with their guns leveled at them, and ordering them to stop, which they did. The bandits took from them 2,607 pesos and 24 centavos, *oro nacional*, or the equivalent of \$1,402.92 United States currency.

THE AGUILA Co.

December 27, 1917, Paymaster A. E. Schmidt, on board launch *Basuto* was held up and robbed of \$40,710.66 at kilometer 8/9 of the Chijol Canal. Shots were fired at the launch as she came in sight, one of them striking the engineer Manuel Viano, causing slight wound. The launch was ordered to stop and three men came on board demanding from the paymaster what money he was carrying. This was done without resistance on the part of our men. The money was passed out to other bandits on shore and the boat ordered to proceed on its way. The wounded man was taken to Santo Tomas and given first aid. Besides the paymaster, there were on board the *Basuto*, the pilot, the engineer, and a sailor.

EAST COAST OIL Co.

January 23, 1918. On this date five soldiers rode up to the station Tierritas Blancas, and after asking Paul Schultz, the pumper, a few questions in regard

to the company, the officer in charge struck Schultz over the head with his pistol, and also struck a small Mexican boy, who was working at the station, over the head; whereupon they both ran and the bandits began firing on these men. They also attacked a Mexican woman who was living nearby and who came out to see what was taking place. These bandits were evidently drunk at the time because the attack was made on these parties without the slightest provocation.

THE AGUILA Co.

February 6, 1918, bandits entered Naranjos and commandeered 16 mules, valued at \$3,000; also 3 horses valued at \$700.

EAST COAST OIL Co.

February 8, 1918, a force of about 150 men visited our camp at Station "A" near Panuco, and took all our commissary supplies, blankets, and bedding and made demands from the company for 10,000 pesos, *oro nacional*.

THE TEXAS Co.

February 12, 1918, Paymaster House in launch *Alex 1*, was held up by bandits in the Chijol Canal within a few miles of Tampico. One of the Mexican launch boys was shot through arm when the bandits shot at the launch to stop it. After launch had been stopped and came to the bank Paymaster House fired his shotgun at the bandits and it is believed that he killed two of them. At any rate they ran away and House returned to Tampico. The Mexican launch boy who was not shot and an American employee of the company were on shore when House opened fire and succeeded in escaping, reaching Tampico later in the afternoon. One or two other American employees and the wounded launch boy who were in the launch when the firing began returned to Tampico with Mr. House. The bandits did not get the pay roll or anything else. The following day Mr. House in an open launch with one launch boy made the trip through the canal and delivered the pay roll. There were about eight bandits in the party.

FREERPORT-MEXICAN FUEL OIL CORP.

February 15, 1918. During middle of February bandits held up our camp at Camalote, taking groceries and clothes of the men, also, taking one of the tool dressers, Lonnie Morris, with them, stating that the price of his release was \$1,000, to be delivered to them at El Hijo. However, through the intervention and influence of Mr. J. F. Fitzgerald, contractor on the Tampico-El Hijo Railroad he was finally turned loose the next morning without our having to pay the ransom.

COMPAÑIA METROPOLITANA DE OLEODUCTOS S. A.

February 19, 1918, launch *Thendara*, carrying Mr. F. C. Laurie as passenger, attacked in Chijol Canal by bandits. The launch escaped but was riddled with shots during the attack.

February 21, 1918, launches *Thendara* and *Houp-La* held up in Chijol Canal by armed bandits. The launch *Thendara*, which carried Messrs. Shaffer and Prather as passengers, escaped. The pilot of the launch was severely wounded and Mr. Prather slightly wounded.

MEXICAN GULF OIL Co.

February 21, 1918. On this date armed bandits appeared at the Horconcitos pipe-line pumping-station camp, about 34 miles from Tampico, which was in charge of Mr. Stein, and took from him 590 pesos and 44 centavos, *oro nacional*, or the equivalent of \$329 United States currency.

THE TEXAS Co.

February 21, 1918. Early in the morning of February 21 launch *Alex 1* was stopped by bandits in Chijol Canal near Tampico. The bandits were looking for the paymaster and the pay roll, but as other arrangements had been made at the last moment, he was not on board. The bandits threatened to kill a passenger who was on board, believing him to be the paymaster, but a company employee, Mr. C. C. Sidwell, finally convinced them that the passenger was not Mr. House. One of the launch boys was shot through the arms when the launch was fired into by the bandits from the shore to stop it. Mr. Sid-

well, the passenger, and the launch boys were robbed of all their personal belongings by the bandits. Just as the bandits were finishing the robbing of persons on board the *Alex 1*, the two fast launches of the Metropolitan (Island Oil Co.) came by the spot. They were both fired into but the *Thendara* kept going on account of her great speed and got away, one man, Mr. Walter Prather, being slightly wounded. The other launch was stopped because the man at the wheel was wounded. On board this launch [were] Paymaster Minnett, Doctor Brisbane and several other employees of the Island Oil Co., and Paymaster House of the Texas Co. The bandits knew exactly how much money the Island paymaster should have and were satisfied after that had been passed out to them. They apparently did not know that Paymaster House was on board the same boat but they chanced to see the end of his shotgun and demanded that same be turned over to them. On account of his previous experience Paymaster House was afraid to surrender the gun and prepared to defend himself. He was killed in the fusillade which followed. Paymaster Minnett was wounded in three places. Doctor Brisbane was seriously wounded. There were about 40 men in the party, all well armed. Total casualties: Mr. House killed; Mr. Minnett, Doctor Brisbane, and Mr. Prather wounded; Mexican launch boy wounded. All the wounded men recovered. About 14,000 pesos were taken by the bandits. None of these were caught or punished.

February 22, 1918, a small party of bandits entered the Obando camp and robbed it of about 2,500 pesos. After they left, one of the party returned and demanded more money. He became so abusive that the men feared for their lives and one of them took his gun away from him and fired several shots at him, finally driving him out of camp.

THE AGUILA Co.

March 1, 1918, bandits entered Tierra Amarilla and forced all men to leave camp. Food and material was taken by these forces to the amount of \$175.

March 1, 1918, bandits entered Potrero and broke into house, taking bedding, etc., valued at \$453.08, and personal belongings of the men to the value of \$400. They also commandeered a horse valued at \$35.

COMPAÑIA METROPOLITANA DE OLEODUCTOS S. A.

March 5, 1918, at 6 p. m. the camp at Lot No. 9 Tepetate was held up by armed soldiers. The sum of \$1,341.70 Mexican gold currency was stolen from the camp office.

THE AGUILA Co.

March 7, 1918, bandits entered Potrero, broke into the houses and stores *bodega* and took bedding, etc., to the value of \$100.35. Cash \$1,000. From the employees they took personal effects amounting to \$600, which included everyone from superintendent to Chinamen.

FREEPORT-MEXICAN FUEL OIL CORP.

March 15, 1918. On or about this date the bandits again raided our camp at Cannalote, Panuco district, robbing the men of all valuables and clothes, also all stores, blankets, etc., in camp. They again demanded \$1,000. During regular intervals after this they came to this camp until it became impossible to continue work, which has been shut down since that time. Two of our firemen were hanged in the derrick at this camp during these raids.

THE TEXAS Co.

March 16, 1918. Our camp foreman at Topila was on the Panuco train which was held up by bandits and several hundred pesos were taken away from him. Some of our employees on the train were robbed of watches and small sums of money.

THE CORTEZ OIL CORP.

March 28, 1918. Our launch *Cortez 1* left Tampico with Messrs. Reber, vice president and general manager, Goldsborough, secretary and treasurer, Mathers, secretary to the general manager, and two others, field employees. The pay roll for the week was on board the launch and amounted to 32,125 [?] pesos was in Mexican currency and the balance in United States currency. Between

kilometers 4 and 5 on the Chijol Canal a party of nine armed bandits stopped the launch and ordered everyone ashore; the Mexican engineer not coming ashore with the rest was immediately fired upon but not hit. The bandits then robbed the entire pay roll and handled Mr. Mathers in particular in a very rough manner as they presumed he was the paymaster. In the middle of the holdup a launch containing 5 officers and 15 men of the Federal Army passed by and proceeded slowly for nearly a mile before answering the continued exclamations of Mr. Mathers that the company was being robbed. The troops finally came back and fired upon the bandits with the result that they took to bush leaving 5 or 6 bags of 1,000 pesos in silver on the bank of the river. A search of the immediate vicinity lasting about an hour resulted in the finding of an equivalent amount of silver, to some of which the Federal soldiers assisted themselves quite liberally. About all the bandits were masked and one or two were recognized by our party as being among the *cargadores* who had that morning carried the money from the automobile to the launch at the customs wharf. Our party had altogether a nasty experience and believe that but for the timely arrival of the Federal officers the bandits would have carried out their threat of shooting one of the party as soon as they had cleaned up. Our total loss was \$21,797.50 pesos, the equivalent in United States currency being \$12,007.67.

THE AGUILA Co.

March 28, 1918, bandits entered San Petrero and looted Chinese quarters, laundry and kitchen, stealing bedding and provisions valued at \$259.31. From Chinamen they took \$700 in personal effects.

March 28, 1918, bandits entered Tierra Amarilla looting the camp houses, mess, etc. They took provisions and stores valued at \$1,136.98. From the employees they commandeered personal effects to the value of \$1,611.10. They also took 6 mules worth \$1,200.

LA CORONA Co.

April 4, 1918, five armed bandits entered our Santa Fé camp and robbed the documents (?), watches and money belonging to our staff. They shot at our night watchman, woke up our cashier and had him open the safe and took the contents, being \$705.50.

THE TEXAS Co.

April 6, 1918, our production camp at Tepetate was robbed of a few hundred pesos.

COMPAÑIA METROPOLITANA DE OLEODUCTOS, S. A.

April 12, 1918, armed bandits entered the camp at Lot No. 9 Tepetate and the foreign employees, who offered no resistance, were made to suffer gross indignities. Sparsely clad and shoeless, the said employees were compelled to stand in front of loaded guns while the company's premises were ransacked and their personal effects stolen. Some of the employees were cruelly beaten. Besides a considerable quantity of commissary supplies, the amount of \$823.99 Mexican gold currency was taken from the camp offices. In consequence of this and similar attacks at neighboring camps there was a general exodus of employees. This company along with others suffered considerable monetary loss and delay to operations. It has not yet been possible to replace the employees.

INTERNATIONAL PETROLEUM Co.

April 13, 1918, our camp was visited by four soldiers, who were later identified, who proceeded to loot and rob the camp, stealing \$816 Mexican gold, and some \$60 more from our help. When the bandits first appeared at camp they demanded of our superintendent of drilling, Mr. A. J. Kirkwood, \$500, and being refused, they threatened to kill our paymaster, Mr. Beresford, and actually placed the muzzle of their loaded guns against his body to force the money from him. They thereupon picked out, as the important figure of the camp, Mr. Sheldon, and tried to force him to give them money, which he refused to do, whereupon the soldiers began to beat him with their *machetes*, together with other men in the camp. They made several threats to execute several men including Mr. Sheldon and actually did take them out with the idea of shooting them, and finally started with the men, threatening to take them to

Cerro Azul with the expressed intention of executing them there. They made claim they were Pelaez followers; however this is absolutely refuted by the fact that these men were specifically identified by Messrs. Schmieding and Welsh, two employees of our company, who encountered the same parties on the road from Juan Cassiano, and who were followed to our camp by these soldiers. When Messrs. Schmieding and Welsh were met by these men they were held up and searched, and later, when the same ones that held them up appeared at our camp to do the robbing and abusing above mentioned, Messrs. Schmieding and Welsh recognized them as the parties whom they had met, and it is upon this statement that this company says they were the same. We have been subjected to many indignities of a character concerning which it is not necessary to go into detail, but which, however, have caused us a great deal of loss in time and money. We have been deprived of the use of our boats by Government soldiers, our mules and rolling stock have been appropriated by them at will, and always to our inconvenience. We have also suffered greatly in our land department, the personnel of which, by the way, is practically all Mexican citizens, because they have feared going down in the lower fields, particularly when it was known that the soldiers were there. We might recite endlessly the difficulties in many directions that this company has suffered, but I believe that the instances herein referred to are sufficient for the purposes we have mutually discussed.

MEXICAN GULF OIL CO.

April 16, 1918. Following a succession of murders, assaults, and holdups by bandits and other unknown parties in the south country, the employees of the Mexican Gulf Oil Co. (pipe line and production camps) in the Tepetate district on April 16, came to Tampico; the number of men were about 35 in all, the greater proportion of which did not return to work for nearly two weeks. The entire plant in that part of the oil fields was shut down, due to this run-out and greatly interfered with our construction and operation work.

April 18, 1918, the Tepetate pipe-line pump-station camp about 65 miles from Tampico, in charge of C. C. Chambers, was held up and robbed by bandits of 450 pesos and 23 centavos, *oro nacional*, or the equivalent of \$259.47 United States currency.

THE CORTEZ OIL CORP.

April 14, 1918. On the night of the 14th of April our camp was ransacked by some drunken bandits and other unknown parties, and our entire drilling staff had to take cover in the bush. This was the culminating point of a series of such disturbances and our drilling staff could stand the strain no longer. Being convinced that their lives were in physical danger, they closed the camp and came in to Tampico, and all our efforts to get those men to return to work were unavailing.

THE TEXAS CO.

April 18, 1918, production camp at Tepetate robbed by the bandits who secured small sums of money and the watch of Mr. Theo. Rivers.

April 18, 1918, our motor barge *Alma R* was held up and robbed in Chijol Canal. The bandits secured several thousand pesos which was part of pay roll which was being sent down without paymaster. It had been planned for paymasters to go on this boat with entire pay roll but plans were changed at last minute and the larger part of pay roll was saved. The bandits were anxious to get the paymaster and kill him. They accused the supercargo on the boat of being the paymaster, and his life was saved only by insistence of the Mexican captain of the boat that the paymaster was not on board.

LA CORONA CO.

April 19, 1918, a few armed bandits held up our Topila superintendent who was driving towards Tampico, and robbed him and his wife of their personal belongings, near La Crusada.

THE AGUILA CO.

April 23, 1918, bandits and other parties entered San Pedro camp and requisitioned \$1,359.50 in cash from the cashier.

EAST COAST OIL CO.

April 24, 1918. Five bandits visited our Station "B" camp at Topila and robbed the field foreman of \$18 United States currency and all of his clothes; also took all the clothes and money of three Chinamen who were employed in the camp, and afterwards visited the houses of Mexican employees in the camp and took their personal effects, consisting of clothes, money, and ammunition.

THE AGUILA CO.

April 25, 1918, two armed bandits entered Bustos pump station and demanded \$300 from each man. The money not being forthcoming, they took \$28 from one man and a \$3 Ingersoll watch from another. They then insisted on the two pumpers accompanying them to see their chief, but they were finally persuaded to let the pumpers go but insisted on a note to their chief to the effect that there were no funds in Bustos.

LA CORONA CO.

April 26, 1918, the same bandits who before visited our Sante Fé camp, entered camp, opened the safe and disappeared with \$475 and threatened to shoot our cashier.

April 27, 1918, bandits ran into the Sante Fé camp shooting all around, robbed an amount of \$473.50 and disappeared.

MEXICAN GULF OIL CO.

May 6, 1918, a party by the name of J. N. Scott, American, was assaulted in a *cantina* near our Tepetate camp where he was severely cut up by *machetes* or daggers. Two of our men, named Earl Boles and Ted Nabors, went over to investigate and to offer their assistance. However, upon arriving on the scene of action, they found Scott was being well cared for and they attempted to return to camp. In coming along the Cortez right of way they were suddenly attacked by a man with a drawn *machete*, who jumped from a bush, threw one arm around Mr. Nabors' neck, and attempted to strike him, at the same time, with his weapon. Nabors, however, was successful in giving the man an uppercut in the jaw which threw him to the ground, whereupon both Messrs. Boles and Nabors drew their pistols, at the sight of which the Mexican assailant scrambled to his feet and beat it to the *monte*.

THE AGUILA CO.

May 6, 1918, bandits broke into the quarters of Santo Tomas station engineer and took personal effects and cash to value of \$512.

LA CORONA CO.

May 12, 1918, bandits and other parties requisitioned \$300, together with 26 mules, 2 horses, 1 ox, chickens, cars, *machetes*, medicines, food supplies, etc., cut the telephone lines, kept our employees as prisoners a couple of days in the camp, and made drilling work during a whole week impossible.

THE CORTEZ OIL CORP.

May 12, 1918. Unfortunately no systematic record has been kept on the innumerable disturbances created at Tepetate but it is within the writer's personal knowledge that on the 12th of May a disturbance was created by some drunken soldiers, one of whom fell asleep in one of our tents. His companions on finding him in this condition insisted he had been murdered by the occupier of the tent, and they started in to hang our assistants. They would have unquestionably taken this man's life if our engineer had not succeeded in awakening the drunken man and the timely arrival of several other soldiers [*sic.*]. We have consulted with our general superintendent of construction as to the present feeling of the field staff and he advises us that his men are working under very strained and nervous conditions and that they have stated that unless the companies can afford them a fuller measure of protection than the efforts of the past six months it will be impossible for them to continue their work though it is their desire and resolve to remain at work whilst there is a possible chance of conditions improving for them.

May 16, 1918. On this date we sent our paymaster with 18,000 pesos on the Texas Co.'s pay launch and this launch was held up by pirates off the island of

Juana Ramirez in the Tamiahua Lagoon. Our paymaster was robbed of his personal effects and subjected to three or four hours detention in unpleasant circumstances, but was not subjected to bodily violence. Our entire pay roll was plundered, the equivalent of United States currency figure being \$10,547.50.

THE TEXAS Co.

May 16, 1918. Our launch *R. C. Holmes*, having on board Paymaster W. J. Storke of the Texas Co. and Paymaster Morgan of the Cortez Oil Co., was held up in Laguna Tamiahua and both pay rolls, amounting to about 10,000 pesos for the Texas Co. and about 20,000 pesos for the Cortez, were taken, the paymaster of the Texas Co. having been treated somewhat roughly. Mr. Bertlien, supercargo on the launch, and Mr. Stillwell, an employee of the Cortez Oil Corp., were robbed of personal belongings. One of the Texas Co. money sacks was found on a man who was arrested in town that same night before news of the robbery had reached Tampico. About two thousand pesos were in the sack. We understand it is this man who was later executed. A number of arrests were made and Messrs. Storke, Morgan, Bertlien, and Stillwell were asked to identify them. One man was identified. We understand four men are still under arrest for this robbery and nine others were in jail for some time, they having been released several days ago. A guard of soldiers had accompanied the paymaster to Rivera and from that point had returned to Tampico, as it was considered safe once Rivera had been passed. The robbery occurred after the soldiers had left the launch.

MEXICAN GULF OIL Co.

May 17, 1918. On or about the 17th of May Mr. Rox Underwood, while *en route* on the pipe-line right of way, a few kilometers south of the Cucharas River crossing, met a number of armed men, who demanded that he deliver up to them the money which he was carrying; this he refused to do and in order to protect himself jumped behind a log on the roadside, close to the under-brush, and threatening with his revolver pointed at the men, stated that he would fire upon them if they approached any closer; finally, after considerable hesitation they passed on down the road, leaving Mr. Underwood unmolested.

Near the same spot, on May 22, 1918, while *en route* on horseback for Tepeitate, Mr. Underwood was fired upon from ambush, the bullet striking so close to him that he was forced to abandon his horse and hide in the dense under-brush along the way, leaving a sack containing 1,700 pesos, *oro nacional*, or the equivalent of \$1,040.49 United States currency, tied to the pommel of the saddle, being unable to extricate it and take it with him.

May 18, 1918. On this date the Tepeitate station camp was held up and robbed of 300 pesos, *oro nacional*, or the equivalent of \$183.30 United States currency.

COMPAÑÍA METROPOLITANA DE OLEODUCTOS S. A.

May 20, 1918, the sum of \$103 Mexican gold currency was stolen by bandits from the camp office at Lot No. 9 Tepeitate.

LA CORONA Co.

May 23, 1918, bandits entered Sante Fé camp and wanted an amount of \$20,000; otherwise they would burn the house of the superintendent. They took the contents of the safe, being \$458.50, and went away.

May 23, 1918, the same bandits visited our Topila camp and requisitioned from the camp boss all his and his wife's personal belongings, representing a value of about \$300.

May 26, 1918, bandits returned to Sante Fé camp, claiming again the \$20,000 (pesos), searched all camp houses, and went away with \$532 and clothes of the employees.

May 29, 1918, the same bandits overran our camp again and took \$156, being the amount in the safe, as well as food supplies.

June 1, 1918, the bandits entered the camp at night and robbed all personal belongings of the superintendent and of his wife.

TRANSCONTINENTAL DE PETROLEO S. A.

June 5, 1918, our paymaster at Amatlán had stolen from the room which he was occupying, during his temporary absence, 6,000 pesos. He was not held

up but undoubtedly the loss of the money and failure to recover it was due to the lack of proper policing of the territory and we leave it to your discretion whether this is a bandit outrage.

LA CORONA Co.

June 8, 1918, the same set of bandits returned during full daylight and took away the money for the weekly pay roll amounting to about 2,000 pesos at our Santa Fé camp.

EAST COAST OIL Co.

June 8, 1918, at 3.15 p. m., 4 bandits rode into camp at our Torres terminal and demanded our pay-roll money. The pay roll had been sent up to terminal by the paymaster in the launch and had arrived at the terminal about 30 minutes before the holdup took place. The bandits secured 1,542.65 pesos, *oro nacional*. None of our employees were molested because the money was surrendered immediately upon demand.

THE AGUILA Co.

June 9, 1918, robbers broke into the office at Tepetate and forced open the cash drawer, stealing \$967 in money.

COMPAÑIA METROPOLITANA DE OLEODUCTOS S. A.

June 12, 1918, during an encounter between the Government and reactionary forces the camp office at Palo Blanco was ransacked and the sum of \$1,100.81 Mexican gold currency was taken, in addition to a considerable quantity of material and commissary supplies.

MEXICAN GULF OIL Co.

June 24, 1918. On the night of June 24 the large earthen storage oil reservoir on Lot 8 Tepetate was set afire. This occurred about 8.30 p. m. The tank at the time the fire occurred contained about 150,000 barrels of fluid. At 4 o'clock of the same day the Cortez Oil Corp. had brought in their well No. 5 on Lot No. 5 Tepetate, estimated at a possible production of 50,000 barrels a day. The oil from the flow of this well, before the well was successfully closed, ran down and filled the *arroyo* just on the east side of the earthen storage in question. About 3 o'clock that night, when the fire had heated the fluid in the tank to a boiling point, the fluid boiled over with such a force as to blow the fire out of the reservoir, but caught the oil in the *arroyo* to the east. For a time it seriously threatened the big well by reason of the fact that flames began moving up stream. Fortunately, however, a large force of men were on duty in the near vicinity and peon recruits from our own and neighboring camps were already on the scene of action, endeavoring to control the fire. They were successful in fighting it and finally put it out on the following day. Investigation showed that fluid to a depth of 4 or 5 feet went down the *arroyo*. At the time the tank boiled over there was approximately 80,000 to 90,000 barrels of fluid burned or lost by reason of the fire.

THE TEXAS Co.

June 26, 1918, one of our employees was robbed near Topila but fortunately had only a few dollars with him.

COMPAÑIA METROPOLITANA DE OLEODUCTOS S. A.

June 27, 1918, another encounter at Palo Blanco took place and all the foreign employees were compelled to evacuate houses and other buildings. All employees were robbed of personal clothing. No money was stolen.

THE AGUILA Co.

June 28, 1918, Messrs. Horseman and Brooks were coming from Cuecillos [to] Los Naranjos, on the narrow gauge railway, and finding the track obstructed by some tree trunks, they stopped the gasoline car and alighted to

remove them. While thus engaged they were fired upon from the brush by unknown parties, both of them being wounded. When they fell to the ground their assailants came out and struck them several times with *machetes*, cutting them up very badly and leaving them for dead. Mr. Brooks being the first to recover, picked Mr. Horseman up, put him on the car and brought him into Los Naranjos. As neither Brooks nor Horseman were carrying funds or other valuables, robbery could not have been the object of the assault. Both men were subsequently taken to the company hospital at Tan Huijo and were found to be very severely wounded, Mr. Horseman having both legs broken by bullets and several cuts around the head, while Mr. Brooks was shot through the stomach and had his arm broken by a bullet; also badly cut by *machete* about the neck. At this writing both men were still in very serious condition.

MEXICAN GULF OIL Co.

June 29, 1918. About 1 o'clock on Saturday in the afternoon, a party of five armed Mexicans assaulted and robbed the Prieto terminal of this company located on the north bank of the Panuco River about 4 miles above the fiscal wharf in Tampico. They were successful in securing 9,427 pesos and 81 centavos, or the equivalent in United States currency of \$5,562.40. The whole affair covered approximately 30 or 40 minutes' time and resulted in the death of Alfred Esparcia, machinist, L. R. Millard, assistant cashier, L. A. Dunn, warehouse clerk, and R. M. Cooper, commissary clerk—all four Americans—as well as the death of Natividad Flores, Mexican foreman. Robert Garcia had a narrow escape and was wounded; in fact, his flesh on his side was seared by a bullet. No resistance was made by any of the men at the terminal and no apparent cause was evident for the brutal assault and death of these men.

LA CORONA Co.

June 30, 1918 Our Topila superintendent has been taken away and held for ransom.

File No. 312.11/8633

The Ambassador in Mexico (Fletcher) to the Secretary of State

No. 1291

MEXICO, August 6, 1918.

SIR: For the ready reference of the Department, I have the honor to transmit enclosed a list of Americans who since the assumption of my duties at this post in February 1917 have been reported as having received personal injuries at the hands of Mexicans.

The list is based on an examination of this Embassy's files and is not intended to cover instances of injury to American property, but is a compilation of cases of American citizens who have been arrested, kidnapped, imprisoned, wounded, or killed, or who have otherwise suffered personal injury.

Representations appropriate to each case were promptly made by the Embassy and I am sorry to have to report that, with the exception of the case of Malone and Rigsdale, these representations were practically without result.

I also append herewith copy of a list of 17 American citizens who have been murdered in Mexico since February 1917. This list was handed by me personally to the Subsecretary of Foreign Affairs, on August 1, 1918.

I have [etc.]

HENRY P. FLETCHER

[Enclosure 1—Memorandum]

AMERICAN CITIZENS IN MEXICO MURDERED SINCE FEBRUARY 1, 1917

Names of persons	Date	Place
Andrew Peterson-----		
Hugh Accord-----	Feb. 14, 1917-----	Border, south of Hachita, N. M.
Bert Jensen-----		
Francisco Galeana-----	Apr. 11, 1917-----	San Miguel de Allende.
J. D. Pilgrim-----	Apr. or May, 1917-----	Chamal Colony, near Tampico.
Hiram W. Collins-----	May 14, 1917-----	State of Sonora.
Robert W. Robertson-----	May 26, 1917-----	Colonia, Tamaulipas.
Lincoln Wieder-----	Oct. 26, 1917-----	Near Guerrero, S. L. Potosí.
Lee Sharp-----	About Nov. 29, 1917-----	Near Del Rio, Texas, in Mexico
Clarence Sellers-----		
Lee Rasmussen-----	Dec. 6, 1917-----	Near Esperanza, Sonora.
American soldier [Mc- Grugan, private].-----	Jan. 3 [8?], 1918-----	Border, south of La Grulla, Texas.
Ralph Snovel-----	Jan. 24, 1918-----	On train, near Guaymas, Sonora.
Richard Rushworth-----	Feb. 10, 1918-----	Tepeapulco, Hidalgo.
Edgar House-----	Feb. 21, 1918-----	Tampico, Tamps.
Lieutenant Chaille-----	June 13, 1918-----	Border.
A. W. Stevenson-----	July 30, 1918-----	Tepetate, Vera Cruz.

[Enclosure 2]

PERSONAL INJURY CASES 1917

Julius B. Osterwald: Reported dead of gunshot wounds at San Gerónimo, Oaxaca, December 25, 1912. Matter referred November 15, 1917, to Consular Agent, Oaxaca.

Albert J. Davis: Reported murdered by Adrian Corona September 1916. Foreign Office note October 6, 1917, reporting he was sentenced to death, but that case is being revised, and trial not concluded. (Department's telegram July 20, 1917, expresses in this only instance in recent years of Mexican being condemned to death for murder of foreigners.)

Harry A. Heath: Imprisoned at Vera Cruz on charge homicide caused by carelessness as locomotive driver, at instance of District Court of Orizaba at Vera Cruz. Arrested January 18, 1917. Excessive bail. Was ill in prison. Apparently due to personal hostility of judge and even of high officials, Mexico City. Charge of carelessness apparently untenable. Considerable correspondence. Foreign Office note 0001, June 28, 1917, states that Heath is released on bail.

H. H. von Ruecan (Rucan or Rueau): Reported murdered with two servants and robbed January 27, 1917, between Zacatecas and Tepic. Foreign Office note September 5, 1917, states governor of Nayarit can find no trace of murderers.

Thomas P. Foster: Reported killed in Torreón by Villa bandits. Instructions 2064, February 2, 1917, encloses this information without instructions.

Andrew Peterson: Also Hugh Accord and Bert Jensen: Reported murdered by Mexican bandits about February 1917 on Mexican territory, having been taken on American soil. (Department's instruction No. 3, February 20, 1917.) Matter referred to Foreign Office February 21, 1917. Apparently no action taken.

Harloe H. Hamilton: Charged with homicide. Embassy's telegram No. 7, February 25, 1917, states Consular Agent reports he is free, but charges not dismissed by authorities. In its No. 14, February 27, 1917, Department wishes to learn why charges were not dismissed. Long correspondence. Then Embassy's note to Foreign Office July 19, 1918, requesting action to be taken for dismissal of case.

Howard L. Elton: Letter March 8, 1917, from Tucson, Arizona, signed James M. Hamilton, asks Ambassador investigate Elton's trial and conviction and execution by Mexican authorities, Oaxaca. A "flagrant" case. Embassy's letter March 17, 1917, to Hamilton states matter should be taken up with Department of State direct.

Francisco Galeana: Killed by bandits after train wreck April 11, 1917, at San Miguel de Allende. Apparently naturalized United States citizen, but not registered. Note to Foreign Office July 24, 1918, gives evidence of his murder by bandits.

J. D. Pilgrim: Murdered at the Chamal Colony. (Further details from despatch 147, May 5, 1917, to Department from Consul, Tampico.)

Hiram W. Collins: Murdered May 14, 1917. Embassy made repeated representations to Foreign Office which stated matter referred to Governor of Sonora who reported December 27 that warrant issued for arrest person accused of murder, who could not be found.

Robert W. Robertson: Murdered at Colonia, Tamaulipas, May 26, 1917, by two Mexicans. (Preliminary report to Department from Consul, Tampico, May 28, 1917.)

Manuel Saldivar: American, condemned to death as Villa spy. (Department's telegram 254, June 16, 1917.)

John Sayers: Attacked and severely wounded June 30, 1917.

G. W. Morton: Alleged assassination by Arnulfo Uzeta Lopez July 5, 1917. Foreign Office sent copies of the judicial sentence.

Beyers and Koppe: Employees Pennsylvania Mexican Fuel Company, captured by Indians July 6, 1917, southwest Tuxpan. Foreign Office note July 20 states matter of release has been referred to Governor [of] Tamaulipas. Foreign Office note July 26 states Governor [of] Vera Cruz has been notified.

E. Burker: Detained apparently without cause by Governor [of] Michoacán, in Uruapan, about October 11, 1917. Note from Foreign Office October 15, 1917, states case has been referred to competent authorities.

Lincoln Wieder: Murdered October 26, 1917, near Guerrero, San Luis Potosí, by bandits. Foreign Office note December 14, 1917, states Governor of San Luis Potosí has asked municipal president of Valles to submit report. Department's instruction July 12, 1918, says keep matter before Foreign Office.

Lee Sharp and Clarence Sellers: Murdered about November 29, 1917, near Del Rio, Texas, in Mexico. December 29, 1917, Consul Piedras Negras reported to Department that two of murderers apprehended and others being pursued by Government troops. Foreign Office note January 10, 1918, states that of the three murderers one was shot, one has been arrested, and third is being hunted for.

Lee Rasmussen: Killed by Yaqui Indians December 6, 1917, near Esperanza, Sonora. Despatch from Consul, Guaymas, January 11, 1918, to Department.

PERSONAL INJURY CASES, 1918

American soldier killed: January 3, 1918. Case against four Mexicans, Garcia, Zambrano, Alafa and Chapa.

Ralph Snovel: Killed by Yaqui Indians who had attacked train. Despatch to Department No. 65, January 24, 1918, from Consul, Guaymas.

Richard Rushworth: Was employed by Mexican Light and Power Co. Killed February 10, 1918, at Tepeapulco by bandits. Paragraph 3 of letter from this company indicates company is willing to consider question of indemnity for Mrs. Rushworth (mother). Despatch, Consul General, Mexico, No. 382, April 17, 1918.

Edgar House: Murdered Tampico, February 21, 1918. Foreign Office note June 28, 1918, states matter brought to appropriate authorities.

Otto Land: Reported kidnapped in Tepic (Consul, Mazatlán). Department's 972 April 13, 1918, 3 p. m., requests Embassy inform Foreign Office.

Yaqui Indians (raids by), State of Sonora: Protection to American life and property. Embassy's despatch to Department June 25, 1918, states Foreign Office has referred matter to military chief of that district.

Murder and robbery of four Americans: Terminal of Mexican Gulf Oil Co., 3 miles from Tampico. Foreign Office note July 17, 1918, has directed appropriate authorities to arrest and punish guilty parties and furnish protection. Embassy's telegram to Department July 20 states no results as yet.

Whiteford and Land kidnapped: Ransom. State of Nayarit. Memorandum left at Foreign Office July 10, 1918. Memorandum containing history of representations left with chief of protocol July 24 and Department informed of this memorandum by telegram, July 24, 6 p. m., 1918. Note from Foreign Office stating regrets the death of Whiteford, but cannot be responsible for this kidnapping.

William Land (age 16): Reported kidnapped near Rosa Morada, Nayarit, about July 16. Held for 2,000 pesos ransom. Note to Foreign Office July 23, 1918.

Tom Kingsbury: Foreman, Palomas Land and Cattle Co., southwest Columbus, New Mexico, reported missing about July 17, 1918. Note to Foreign Office July 25.

Malone and Rigsdale: Kidnapped. Ransom. Telegram from Consul, Piedras Negras, July 22, telegram from Department July 23. Note to Foreign Office July 22. July 26 note to Foreign Office reporting they are now safe in Del Rio, Texas. Satisfactory replies have since been received from Foreign Office.

Sturgis and family: Reported kidnapped by bandits near Pichucalco Chiapas. Department telegram 1319, July 29, instructs bring urgently to attention of Foreign Office. Done.

A. W. Stevenson: Murdered July 30, 1918, at Tepetate, Vera Cruz. Telegram 1335, August 1, from Department. Matter referred to Foreign Office.

File No. 812.00/22178

The Consul at Tampico (Dawson) to the Secretary of State

[Telegram]

TAMPICO, August 21, 1918, 6 p. m.

Banditti last night attacked terminals of Eureka Coast Oil Co., American, and Corona Co., Dutch Shell, three miles from Tampico. Attacked wife of British employee of Dutch company, and were finally beaten off by armed employees of Eureka Coast Co. Several Mexicans killed or wounded. Embassy advised.

DAWSON

The Secretary of State to the Ambassador in Mexico (Fletcher)

[Telegram]

WASHINGTON, August 26, 1918, 3 p. m.

1405. See Consul Dawson's August 21, 6 p. m. Bring substance thereof to attention Mexican Government, and request it to take steps to extend adequate protection for American life and property against bandits in oil fields.

LANSING

File No. 812.115/341

The Secretary of State to the Ambassador in Mexico (Fletcher)

No. 690

WASHINGTON, September 10, 1918.

SIR: The Department encloses herewith a copy of a despatch dated August 5, 1918, from the American Consul at Tampico, transmitting a list of outrages upon American citizens that have been committed by Mexican bandits in the Tampico consular district since August 15, 1917.

You are instructed to present to President Carranza a list of the murders and robberies of American citizens set forth in the Consul's despatch and its enclosure, and to ask him what steps he plans to take for the protection of American citizens in and about Tampico; and you will, if necessary, continue to press President Carranza for an answer to your representations.

I am [etc.]

ROBERT LANSING

File No. 312.115/348

The Ambassador in Mexico (Fletcher) to the Secretary of State

No. 1566

MEXICO, undated.

[Received November 9, 1918.]

SIR: In compliance with the Department's instruction No. 690 of September 10, 1918, a note was addressed to the Mexican Foreign Office under date of October 3, 1918, transmitting a copy of the statement furnished to the Department in despatch No. 466 of August 5, 1918, from the Tampico Consulate, relative to the outrages committed upon American citizens in the Tampico Consular District.

In reply thereto, the Foreign Office states in a note dated October 28 (copy and translation enclosed) that the Mexican Government regrets deeply the outrages committed against American citizens, and that sufficient forces are being sent to the Tampico region to push the campaign against the bandits, and thus be able to extend adequate guarantees.

I have [etc.]

HENRY P. FLETCHER

[Enclosure—Translation]

The Mexican Undersecretary of State for Foreign Affairs (Pérez) to the American Chargé (Summerlin)

No. 3656

MEXICO, October 28, 1918.

MR. CHARGÉ D'AFFAIRES: I have had the honor to receive your courteous note No. 642 of the 3d instant, enclosing a list of crimes committed against citizens of the United States of America in the Tampico region.

The Government of Mexico regrets profoundly the crimes of which these citizens have been the victims, and at the same time I beg to state that sufficient forces are being concentrated in that region to push the campaign against the bandits and thus be able to give ample guarantees.

I avail [etc.]

By order of the Secretary for Foreign Affairs:

E. GARZA PÉREZ

File No. 312.115/353

The Vice Consul at Tampico (Ward) to the Secretary of State

No. 572

TAMPICO, November 23, 1918.

SIR: With regard to previous despatches from this Consulate enclosing reports by local American oil concerns telling of the abuse of floating equipment owned by them and commandeered by the Mexican military authorities for troop and supply movements, I now have the honor to transmit herewith copies of a joint protest made by several oil companies to General Caesar Lopez de Lara, chief of military operations in this district, bearing on continued abuses by his forces.

A copy of this despatch together with its enclosure is being mailed to the American Embassy at Mexico City.

I have [etc.]

WILLIAM A. WARD

[Enclosure]

Copy of a joint protest submitted to General Caesar Lopez de Lara by several oil companies

TAMPICO, TAMP., November 6, 1918.

The undersigned representatives of the oil companies herein mentioned respectfully place before you the following facts and protest strongly against them:

1. That during the months of August, September, and October last past, but more particularly in the last-named months, the military authorities under your worthy command frequently and apparently acting under your orders, have seized and appropriated for the use and service of their forces or for the officers of the same, a large number of the launches, barges, and other craft available and in serviceable condition, property of the companies named below and used by them in their private service over the Chijol Canal to and across the Laguna Tamiahua, and in maintaining their traffic between Tampico and their respective camps and properties in the State of Vera Cruz, as well as in dispatching ships from the port of Tampico.

2. That the military authorities and officers of whom we complain are in the habit of seizing the launches and other craft mentioned and using same unrestrictedly and uninterruptedly as long as they remain serviceable, it being a frequent occurrence for them to be retained until disabled by the carelessness of the people in whose charge they are placed by the military. In practically every instance, these launches, etc., are not returned to the owner until they are in need of extensive repairs, these repairs being especially burdensome to the companies in view of the fact that they are not only expensive, but also consume a great deal of time, hardly ever less than three or four weeks. In addition to the above there have been cases where the launch has been abandoned by its military occupants at the point where it became useless to them, and left there to be picked up later by the company owning it, at its own expense.

3. That the officers and forces under your distinguished command have repeatedly seized and appropriated to their own use shipments of provisions consigned to and intended for the use of the respective camps of these same companies, which provisions were urgently needed to supply the wants of employees at said camps.

4. That as a consequence of the seizure of launches, barges, etc., before mentioned, the undersigned companies have experienced the greatest difficulties in communicating by water with their camps in the region described, and some of the companies have actually found it impossible to do so due to the fact that either all or the greater part of their water craft has been in the possession of the military authorities, or else rendered useless by them. Therefore, the task of furnishing provisions, medicines, and other necessaries to their employees has become not only extremely difficult but even absolutely impossible in some instances.

5. That the military authorities and officers of whom we complain have invariably exacted that the companies pay the crews for the time that said crews have been in the service of said authorities and officers, and in some cases they have gone as far as insisting that the companies pay the crews overtime; but these same authorities and officers have never paid, or even offered to pay for the use of our sailing craft nor for the provisions and other articles that they have seized and appropriated, nor have they even offered to reimburse these companies for the amounts that have been paid out by them to the crews which have rendered service to said officers and military authorities.

6. That due to banditry and the lack of security it is, as you well know, extremely dangerous to life and property to attempt to conduct provisions and other necessities overland to our camps; by overland we mean by making use of the roads constructed and maintained by some of these very companies at an expenditure of a considerable amount of money. The frequency with which assaults and robberies are committed, with the usual accompanying loss of life, is also well known to you, and right here we believe it proper to mention the case of one of the undersigned companies which has suffered two such assaults within the past ten days.

7. It is our desire to call to your attention the fact that the arbitrary acts which we have set forth work a harsh injustice towards these companies whom we the undersigned represent, and that the abuses of which we complain, taken

together with other adverse circumstances, raise obstacles which hinder and impede the effective and satisfactory development which the companies would like to see carried out in their operations at their different camps.

Trusting in your well-known integrity and your strict adherence to law and justice, we respectfully ask that you issue such orders as you may consider proper and sufficient to enable the companies the free, complete, and legitimate use of all their sailing craft, and to protect them in the future from the inconveniences and molestation they have suffered in the past.

We are [etc.]

EAST COAST OIL Co. S. A.,
J. R. BATTE, JR., *Superintendent*
CIA. TRANSCONTINENTAL DE PETROLEO,
S. A.
E. J. SADLER, *President*
INTERNATIONAL PETROLEUM Co.,
J. A. MURPHY
MEXICAN GULF OIL COMPANY,
C. W. HAMILTON, *General Manager*.
CIA. MEX. DE PET. "EL AGUILA," S. A.,
JACOBSEN
FREEPORT AND MEXICAN FUEL OIL COR-
PORATION.,
W. H. SHARP, *General Manager*

CIA. DE PET. "LA CORONA", S. A.,
F. J. ALTAMIRA
CORTEZ OIL CORPORATION,
J. W. B. MILLIGAN, *Auditor*
LA ATLANTICA,
H. A. ELLIS
CIA. METROPOLITANA DE OLEODUCTOS,
S. A.,
FRANK C. LAURIE, *Resident Man-
ager*
THE TEXAS COMPANY OF MEXICO,
THEO. RIVERS
THE STANDARD OIL, (N. J.),
M. J. ROEDER

File No. 812.115/355

The Consul at Tampico (Dawson) to the Secretary of State

No. 586

TAMPICO, December 7, 1918.

SIR: I have the honor to acknowledge the Department's No. 397 of November 16, 1918,¹ with enclosures of copy of despatch from the American Embassy at Mexico City, in which it reports that the Mexican Government has expressed its deep regret for the outrages committed against American citizens in this consular district, and that sufficient forces are being sent to the Tampico region to push the campaign against the bandits and thus be able to extend adequate guarantees.

The Department asks for comment. My view, based on the very distressing conditions existing in this district caused by the Government's total inability to cope with, as well as lack of interest in the same, is that its promises in this particular case are as futile as its protests of regret are insincere.

If the Mexican Government had any sympathy for American citizens, it would long since have acted on its own initiative instead of waiting to be prodded by foreign Governments to fulfil its obligations. The Government has always had sufficient forces in this district to cope with banditry but the trouble is that they have not been used for that purpose. For political purposes the Mexican Government regularly announces a new campaign in the southern oil fields against the Pelaez revolutionary movement, which is separate and distinct from the existing disgraceful outlawry permeating the entire district and infinitely more moral and sincere in its treatment of foreign interests than is the recognized Government itself.

This so-called military action against the rebels is not only futile but farcical; but the Government illogically wastes its energies in

¹ Not printed.

attempting the seemingly impossible rather than coping with a live situation which is a reproach to itself and a real danger to foreign interests, but which could be eradicated if seriously and sincerely tackled. As far as such foreign interests are concerned (for which it now expresses solicitude) the Government could well afford to discontinue its fulminations against the revolutionary activities and devote some of its energies to clearing away some of the grave doubts which now befog its claim to consideration as a self-respecting responsible sovereignty.

I have [etc.]

CLAUDE I. DAWSON

File No. 312.115/353

*The Acting Secretary of State to the Ambassador in Mexico
(Fletcher)*

No. 801

WASHINGTON, December 13, 1918.

SIR: Referring to a despatch, No. 572, of November 23, from the Consulate at Tampico, transmitting a protest addressed by certain American and other oil companies to General Caesar Lopez de Lara, concerning depredations upon their property by military forces under his command, you are instructed to make appropriate representations in the case, and report to the Department in regard to the statements contained in the despatch and its enclosures, copies of which, the Vice Consul in charge states, have been mailed to the Embassy.

I am [etc.]

For the Acting Secretary of State:

WILLIAM PHILLIPS

File No. 312.115/355

*The Acting Secretary of State to the Ambassador in Mexico
(Fletcher)*

No. 808

WASHINGTON, December 26, 1918.

SIR: Referring to your undated despatch No. 1566, received on November 9, 1918, in which you report that the Mexican Government has expressed its deep regret for the outrages committed against American citizens in the Tampico consular district, I enclose herewith a copy of a despatch from the Consul at Tampico, to whom a copy of your despatch was sent, in which he comments on the promised endeavors of the Mexican Government to punish perpetrators of outrages on American citizens.

You will bring to the attention of the Mexican Foreign Office the reported lack of improvement in conditions in the Tampico district, and you will renew the requests previously made by you for adequate protection of American lives and property.

I am [etc.]

For the Acting Secretary of State:

WILLIAM PHILLIPS

PROTECTION OF AMERICAN OIL INTERESTS¹

Revolutionary Activities in the Tampico District; Burdensome Tax Decrees Issued by the Mexican Government; Pretended Right of the Mexican Government to Expropriate Private Property Rights without Due Process of Law; Protest of the United States

File No. 812.6363/328

The Acting Secretary of State to the Chargé in Mexico (Summerlin)

[Telegram]

WASHINGTON, January 23, 1918, 7 p. m.

716. Department informed that in consequence of opinions of Attorney General and of consulting lawyers of different Secretaries of State of Mexico that under Article 27 of Constitution, foreign companies cannot in any manner exploit natural riches of country, American oil companies have recently been refused permits to drill for oil on lands owned by them, although such permits were theretofore uniformly granted.

Take matter up with appropriate authorities and urge that pending consideration and promulgation of new laws relative to subject, administrative authorities take no action of character indicated, since this involves such serious consequences to oil companies as to amount to crisis in their affairs. In this connection invite attention to assurances given Ambassador by President Carranza on August 2, 1917, and reported in Embassy's 351, August 2, 7 p. m.² that it was not intention of Mexican Government to take over American oil and mining properties now in exploitation and that there would be no confiscation of these properties. Point out that present action of administrative authorities appears in contradiction of the spirit of those assurances, and report immediately by cable result representations.

POLK

File No. 612.6363/330

The Chargé in Mexico (Summerlin) to the Secretary of State

[Telegram]

MEXICO, January 27, 1918, 3 p. m.

725. Your 716, January 23, 7 p. m., taken up with Pani who replies in a note dated 26th that foreign companies have not been prohibited from drilling wells; that the interpretation of the Attorney General and consulting attorneys of the departments relative to Article 27 of the Constitution does not prohibit foreign capital from being invested in the oil industry, but requires foreign capital to submit to the new laws by renouncing its nationality and organizing as Mexican companies; that this does not imply intervention in the said companies and much less the confiscation of their properties; that

¹ Continued from *Foreign Relations*, 1917, pp. 1058-1072.

² *Op. cit.*, p. 1072.

the attitude of the present Government in all its dealings with foreign interests has been in accord with the assurances given by President Carranza to Ambassador Fletcher on August 2 last. He adds that since the promulgation of the Constitution, the Government has adopted a benevolent policy toward American companies, giving them an opportunity to adapt their business to the conditions created by the said law, and that any concrete complaint which may arise where the interests of an American company are jeopardized shall, when brought to the attention of his Department, be given careful attention.

SUMMERLIN

File No. 812.6363/341

The Secretary of State to the Chargé in Mexico (Summerlin)

[Telegram]

WASHINGTON, February 17, 1918, 2 p. m.

774. Department is in receipt of advices from Tampico indicating conditions there are chaotic. You are instructed to bring this matter to Carranza's attention and to say that the United States Government hopes that the Mexican Government will take the necessary steps to insure the protection of the American oil wells in that locality and the facilities necessary for the uninterrupted production and shipment of oil from these wells and from Tampico for the use of this Government. Confidential: Commander of *Annapolis* and Consul Dawson express apprehension for safety of oil wells and continuance of oil supply.

LANSING

File No. 812.6363/344

The Consul at Tampico (Dawson) to the Secretary of State

[Telegram]

TAMPICO, February 19, 1918, 8 p. m.

I have just returned from the southern oil fields. Property damage at present consists of destruction by fire five bridges on Huasteca Railroad, crippling rail communication between company terminal San Gerónimo and camps at Cerro Azul and Cahiarbo well. Also repeated cutting water line feeding Cerro Azul pump station, with consequent shutting down of pumps yesterday. Pelaez forces probably are responsible for all of above. Carranza troops have destroyed nothing, but have confiscated draft animals, money, and commissary supplies at will without offering payment or receipt. Threats of personal violence also made. Government claim of control of Pelaez territories is true only in that its forces operate at will. No battle has been fought. Pelaez not defeated nor forced to a general retreat. His forces also operate at will in scattered bands with little opposition, using guerrilla warfare tactics. Oil company chiefly apprehensive of prolongation of military campaign. Embassy advised.

DAWSON

File No. 812.6363/351

The Chargé in Mexico (Summerlin) to the Secretary of State

No. 797

MEXICO, February 20, 1918.

SIR: I have the honor to transmit, herewith, as of possible interest to the Department, copy of a translation of the argument presented by General Cándido Aguilar, while Governor of the State of Vera Cruz, supporting the proposed petroleum law which he submitted to the legislature of the State, with a view to conforming with the terms of Article 27 of the new Constitution.

I have [etc.]

GEORGE F. SUMMERLIN

[Enclosure—Translation]

Argument of General Cándido Aguilar in support of the new petroleum bill

On the invitation of your distinguished body, I have the honor to submit the attached "Organic act of Article 27 of the Constitution, regarding petroleum." I request that after due consideration, it be transmitted by the Legislature, by virtue of the authority vested in it by Section III, Article 71, of the Federal Constitution, in the form of proposed legislation to the Federal Congress.

I. GENERAL OBSERVATIONS AS TO THE NECESSITY FOR SUCH LEGISLATION

1. *Present status of the industry.*—In submitting the attached bill, I consider that both the legislative and the executive branches of the Government, over which I have the honor to preside, fulfil the duties incumbent upon them with reference to affairs in the State of Vera Cruz, and that any action taken enjoys not only the legal sanction and authority conferred by the constitutional provision above mentioned, but is a measure urgently required by the general interests of the State of Vera Cruz. The largest and richest petroleum deposits are located within the territory of this State; their development constitutes an industry which daily takes on added importance in the State as well as in the Republic. In six years Mexico has risen to the third place in world production of petroleum, and this position has been attained in spite of our civil strife and even within its most acute period. The petroleum production which has placed our country in this happy position represents the output of a relatively small number of wells, when compared with those operated in other countries. This fact warrants the assumption that the potentiality of the oil regions as yet discovered exceeds anything thus far known in other countries. The public is familiar with the names of the foreign corporations that have invested several million pesos in this industry, and have been organized to develop, transport, store, refine, purchase, and sell petroleum and its by-products, oil lands, etc. The active and unlimited investment of foreign capital gives this industry a new aspect, which demands increasing consideration and attention. Mexican petroleum finds a ready market everywhere; one of the largest railroad companies in the United States moves its trains with our fuel; crude and refined petroleum in ever increasing quantities are being daily exported to England, and many oil companies are entering into contracts involving enormous amounts and covering a long period of years. These facts suffice to show the confidence reposed in the potentiality and in the excellence of the output of the oil regions of Mexico.

2. *Inadequate official action.*—Official action has not kept pace with this rapid growth; instead of fostering the petroleum industry it has hampered it to such an extent that the damage caused thereby can with difficulty be remedied. Our legislation on petroleum is wholly inadequate, as is evidenced by the fact that we have no law applicable to the subject in its entirety. A special paragraph of the present memorandum has been devoted to a study and criticism of the legislative and legal antecedents in this matter. It may be stated as a general proposition that the law of December 24, 1901, is the sole piece of legislation dealing with the development of hydrocarbons; and even this measure has been shown in practice to be so deficient as to make its operation impracticable. The same is true of the rules and regulations given in accordance with this law. What is even more regrettable is that the Federal authorities

no less than those of the State of Vera Cruz have resorted to the questionable practice of granting franchises (*concesiones*) in every case. Although it is true that this procedure, in so far at least as relates to the Federal authorities, is sanctioned by the law of 1901 above mentioned, or by others as inapplicable to the subject as the law covering immovables of the Federal Government, such franchises conform neither to the text nor to the spirit of these and the other laws in force generally throughout the Republic. They must be considered, therefore, as constituting special laws whose validity is very questionable, as is, too, the authority of the legislative branch to enact them, and especially of the executive branch to enter into agreements based thereon. Another factor in bringing about the chaotic conditions prevailing in this industry is the lack of suitable regulations which shall define the powers and attributes of the several agencies of the Federal and State Governments, and of the various authorities which may be called upon for any reason to intervene in the administration and supervision of this industry. This step is designed to avoid constant clashes of authority which occur so commonly, and the granting of franchises, permits and contracts, whether directly or indirectly relating to this industry, by different bureaus and authorities as has heretofore been the case, and finally, any insecurity in their validity. Herein lies the reason why the petroleum industry has been a failure as a revenue producer. The districts where this industry has been developed have received no benefits from its enormous wealth. The people inhabiting the oil regions are practically in a state of abject poverty; and some of these villages are even tending to disappear.

Other nations have not found it necessary to tax petroleum, because other sources of revenue sufficient to meet their needs have been open to them; but Mexico has been compelled to resort to every source of wealth available. Although she has many such sources, they remain nevertheless undeveloped; and inasmuch as petroleum ranks among the most important whose development has been remarkable, it is but natural that the Nation should resort to it to meet its expenditures and public needs. This is why every administration has sought to levy taxes on petroleum; but as soon as they have encountered the restrictions and exemptions granted in favor of certain companies—and these have always been the companies with the largest production—they have had to resort to taxes of any nature, provided they were not excluded in the franchises. Thus the revenue derived from this source has been inadequate; and so long as these obstacles exist the same fruitless effort will be made to reach a favorable result.

The foregoing facts show clearly the need for the enactment of a general law governing this industry; such is the purpose sought in the bill submitted.

The State of Vera Cruz has a legitimate interest and an indubitable right to be the authority to initiate what will be the final decision in this matter, which has received the attention of the revolutionary authorities, although up to the present this urgent need has not been met. On the enactment of the Constitution of 1917, Article 27 of which vests in the Nation the *dominium directum*¹ of all petroleum deposits, it is evident that the law under consideration must follow this constitutional provision, and that it must have, in so far as relates to petroleum, the character of an organic law, which shall interpret and explain its provisions, and make it fully applicable and effective.

II. LEGISLATIVE AND LEGAL ANTECEDENTS

3. Laws.—It is of capital importance to bear in mind in this connection the legal and legislative antecedents of the subject. A knowledge of them is indispensable, so that any step taken in the matter may be a conscious evolution and a step forward in the history of our national jurisprudence.

In making a survey of our laws we find the following relating to petroleum, either because they deal exclusively with this matter or because they touch it indirectly:

Mining ordinances of Aranjuez May 22, 1783; Article 72, Fraction X of the Federal Constitution of February 5, 1867, as amended December 14, 1883; mining code of November 22, 1884; mining law of June 4, 1892, and regulations thereof; mining law of November 25, 1909, and regulations; law safeguarding the mining industry, July 6, 1887; petroleum law of December 24,

¹ For Bouvier's definition of this term, see footnote, *post*, p. 693.

1901; Federal revenue act of June 3, 1912, and regulations concerning the stamp tax on crude petroleum; Article 27 of the Federal Constitution of February 5, 1917.¹

To these laws should be added the decree of January 8 [7], 1915,² issued in Vera Cruz by the First Chief of the Constitutional Army as the depositary of the Executive power of the Nation. This decree in virtue of the gross inadequacies of petroleum legislation ordered the suspension of all work relating to this industry "until the issue of new laws which shall settle the legal status of petroleum and its derivatives."

4. Present status of the legislation.—A glance at the laws above enumerated will suffice to show the state of our petroleum legislation prior to the enactment of the Constitution at present in force. This condition may be summarized in the following concrete propositions:

1. There is neither a Federal nor local law covering the whole of the petroleum industry.

2. The subject of petroleum has been treated only in:

- (a) Special laws, themselves inadequate and incomplete;
- (b) Mining laws;
- (c) Franchises and contracts entered into with private parties or companies.

3. Among the special laws may be mentioned the Federal law of December 24, 1901, which deals with the development of the subsoil of national and waste lands.

4. The mining laws in so far as they relate to petroleum only touch the two following points:

- (a) Civil ownership;
- (b) Fiscal régime.

5. With regard to the first point, the mining laws sustain the principle that the ownership of all fuels of the mineral order to be found in the subsoil belong to the owners of the land.

6. With regard to the second point the mining laws exempt from all Federal, local, and municipal taxation, excepting only the stamp tax, beds of fuels of a mineral order.

7. All the above laws have been enacted by the Federal Government.

III. OBSERVATIONS

5. Partial legislation.—The above sketch clearly shows that our petroleum legislation is inadequate and deficient. The inclusion of legal precepts governing petroleum in bodies of laws relating chiefly to other subjects is deserving of the sharpest criticism, since it introduces an element of disorder and discord into the whole of our legislation, and applies a single criterion to matters which require by their very nature separate treatment at the hands of the legislature. Petroleum, or more correctly speaking, the mass of social phenomena referring to petroleum, constitutes a single topic which should be dealt with in a special body of laws. This is demanded by the importance and number of these phenomena, and if we have heretofore had parallel treatment of these subjects, due to a diversity of causes, the time has now come to differentiate between the several subjects and to group under petroleum legislation the principles scattered throughout our several laws, with the addition of such others as are imperatively demanded.

6. Franchises.—Equally censurable, from every point of view, is the system of legislating on a certain subject, as has been the case with petroleum, by means of special provisions relating to concrete cases, embodied in the franchises and contracts entered into with particular parties. Franchises are to be condemned from several points of view: In general because the system of granting franchises for the execution of certain acts is unjust and creates privileges, if the act authorized by the franchise is not sanctioned by the general law; while it is needless if it is sanctioned by law. Furthermore, the provisions of the franchise which involve benefits and favors granted to certain persons are contrary to the principle of equality before the law, which is basic in our

¹ *Foreign Relations, 1917*, p. 955.

² *Ibid.*, 1915, p. 872.

constitutional system. Lastly, the general principles, those which, so to speak, legislate on certain matters, contain at times franchises which are useless, for there is a law covering these points, while if there be none such, these franchises are wholly contrary to the principle of general interpretation, which should be applied in legislation; and they, furthermore, serve no purpose to determine the various juridical relations of those parties to whom the franchises in particular refer.

7. *The prior rights of the Federal Government.*—The preeminence of the Federal Government over the States is another of the general controlling features in such matters. The existence of this preeminence is beyond all question; it is shown in the jurisdiction above granted to the Federal Government in all mining matters, and in the existence in the Federal mining legislation of provisions directly affecting the States, and invading their sovereignty (such, for example, as that relating to the restriction in levying taxes, contained in the law of 1887), and in the exclusive character of the Federal administration in mining and petroleum matters. Many reasons may be adduced to justify this preeminence. The unity of the Nation and the development of its natural wealth affect not only the private interests of each State but the general welfare of the whole Nation.

In order that this development may be carried on under conditions suitable to the country, that is to say, to all its inhabitants and to the Government, it must be effected in accordance with the laws in force throughout the whole nation based on uniform principles, and not in accordance with local laws which may vary from one locality to another, and be subject even in the same places to more frequent and less well-advised changes. If, therefore, the State of Vera Cruz has the legitimate interest and unquestionable right to initiate the final decision in these matters, as is maintained in the bill submitted, it should not be forgotten that petroleum deposits exist not only in our State but in others of the Republic, and that the proper course is that which we have taken, namely, to take the initiative in securing enactment of a Federal law. This does not mean the complete elimination of the States, if such a phrase be permissible to explain the fact that these have not received any benefits from the petroleum industry even though the deposits exist within their confines, and hence vitally affect their internal sovereignty, based as this is on their territorial sovereignty; for nothing affects the domestic affairs of a sovereign entity more than what relates to the ownership of the land within its jurisdiction.

In the attached project of law, these conditions have been given careful consideration with the view to conciliating Federal interests with those of the municipalities and the States.

8. *Law of 1901.*—In concluding this brief sketch of the status of our petroleum legislation up to the promulgation of the Constitution of 1917, a few words as to the law of December 24, 1901, are not out of place. This law was enacted with a view to favoring the development of the subsoil of waste and natural lands. This subsoil belonged, as did the land itself, to the Nation, and its development could not be undertaken by the Government by virtue of its constitutional limitations. The law in question tried to stimulate this development by private parties, as is seen by its main provision which consists in authorizing the executive to grant permits for exploration and franchises for development of the subsoil of such lands. The law regulates this development, and although some of its provisions are wise and may serve as useful material, there is noticeable disorder, ambiguity, and even silence on many points. The closing articles of the law refer to the development of the subsoil of private lands. Here the law is content to reproduce the provisions of the mining laws on ownership of the subsoil, adding that private parties so desiring it may obtain the right to develop their lands and thus enjoy the benefits of the law, provided they comply with its requisites. This precept is not followed in practice. The development of the subsoil of national land is carried on by the concessionaires in the terms of the franchise, which, if they do not openly violate the principles of the law, at least deprive them of all importance. The same thing happens when the development is effected under a Federal franchise even though it refer to private land. Naturally every attempt to apply the law when the development is carried on without a franchise and on the lands of private parties should be rejected, since the law only refers to the cases above mentioned. It is this deficiency which constitutes its most serious defect.

IV. INTERPRETATION OF THE TERM "DOMINIUM DIRECTUM" AS USED IN THE CONSTITUTION OF 1917

9. *Legislative interpretation.*—The foregoing exposition serves to establish the criterion as to the juridical nature, effects, and consequences of *dominium directum* which Article 27 of the Federal Constitution grants to the Nation in regard to petroleum deposits.

During the epoch of the viceroys under the Spanish law, the mines existing in the colony were the private property of the Crown of Spain, of the King and his successors, thus forming part of the Royal patrimony, no distinction being made between metallic substances and fuels of the mineral order. Independence once gained, the Mexican Nation came into all property situated within its territory which constituted the Royal patrimony, in which are included the substances of the subsoil. On the promulgation of the Federal form of government in 1857, and by virtue of the principle that the States are free and sovereign in all that pertains to their domestic affairs, the mines naturally remained under State jurisdiction. For these reasons all mining matters were withdrawn from State jurisdiction by the constitutional amendment of December 14, 1883, which provided that the Federal Congress should legislate on mining for the entire Republic. The law of November 24, 1884, enacted by virtue of this authority, introduced a most important amendment in the traditional principle declaring that beds of mineral fuel belong to the owner of the soil, as differentiated from metallic substances, which continued to belong to the Nation, as heir of the Spanish Crown; this principle was confirmed by subsequent mining laws and by the petroleum law of December 24, 1901.

On the promulgation of the Federal Constitution of 1917, the petroleum deposits have fallen under the *dominium directum* of the Nation, as provided in Article 27 of this code. The criterion which should guide the Legislature in issuing the organic law on this article, which shall define the nature and effects of such *dominium directum*, should be that which guided the constitutional assembly of Querétaro when it approved the second paragraph of Article 27. This reads as follows:

This (private property) shall not be expropriated except for reasons of public utility and by means of indemnification.

In accordance with this provision, if the *dominium directum* to which the Constitution refers implies the expropriation of petroleum deposits, such expropriation may only be effected through a considerable outlay of money, which the Nation is not in a position to make and with which it would be inadvisable to burden the public credit. The Constitution of 1917, therefore, could not vest in the Nation the property (*propiedad*) in the petroleum deposits; it has given the Nation, in unmistakable language, a superior right over such deposits, namely, the *dominium directum*.

10. *Legal interpretation.*—*Dominium directum* is defined by text writers as follows:

Escríche, in his dictionary on legislation and jurisprudence says:

Dominium. The right or power to dispose freely of anything, when not contrary to law, the will of the testator or any agreement
Dominium is divided into absolute and qualified, or perfect and imperfect.
Qualified *dominium* is subdivided into *directum* and *utile*.¹

He continued as follows:

Complete or absolute ownership. The right which anyone has in any object to alienate it without the intervention of a third party, to receive all its benefits and to exclude the whole world from its use.

Incomplete or qualified ownership. Any of the elements of *dominium* divided among different persons, as when anyone has the right to concur in the disposal of a certain object or to demand something in recognition of his interest therein (*señorío*), and another has the right of alienation, subject to certain limitations and to receive all its fruits by paying a certain annuity or rent to the former.

¹ *Dominium directum*: Legal ownership; ownership as distinguished from enjoyment. *Dominium utile*: The beneficial ownership; the use of the property.—*Bouvier's Law Dictionary*, Vol. 1, p. 605 [Rawle's Third Edition, Vol 1, p. 924].

Dominium directum. The right which anyone has to concur in the disposal of anything, the use of which he has granted, or to receive a certain rent or annual tribute in recognition of his interest therein, or superior right over a certain property, or a better title on realty without the right of beneficial use.

Dominium utile. The right to receive all the benefits of anything subject to a certain rent or tribute paid to him who holds the *dominium directum*.

This superior right which is shown in the right to receive a certain rent or tribute at stated times in recognition of a certain interest, is the right which the Constitution of 1917 grants to the Nation as to petroleum deposits. This does not imply their expropriation, which might only be effected by means of indemnification; nor does it carry with it their spoliation, which would be an act contrary to every principle of justice.

Planiol, in his elemental treatise on *Civil Law*, Volume 1, paragraph 2326, in tracing the historical evolution of property says:

If the formalities of property are considered in Latin America, it will be noted that in two cases the right of property has been presented under complex forms, after having existed under a simple form to which it reverted later. The first of these phenomena was presented in the Roman Empire as the outcome of conquest; together with the *dominium ex jure quiritionis*, which represented true ownership and did not exist in principle outside of Italy, the Romans put into practice for provincial property a general kind of ownership (according to the Roman theory, the State was considered as the owner of provincial property as represented by the conquered territories, private individuals having merely the enjoyment of them, *possessionem et usufructum*, to quote Gaius; but this enjoyment was protected to such an extent that it constituted real ownership). And this difference between these two classes of *dominium* lasted to the days of Justinian, at least in so far as the terms are concerned. The Italian and the provincial properties had hardly been consolidated when a new distinction, which lasted to the end of the eighteenth century, began to show itself through the tenancies and perpetual leaseholds, so that simple and complete ownership, full and unquestioned, existed generally only in three epochs; at the beginning of Roman history, at the end of the Roman Empire, and after the French Revolution of 1789.

Planiol continues his exposition by showing the feudal origin of the division of *dominium* as follows:

From the days of the barbarians (6th and 9th centuries) a new system of land tenure was established. Many contracts granted to the holder of the chattel belonging to another a right unlimited in time, so that the majority of lands were not held by their owners, but were held by other persons who had received them under different grants, by virtue of which, the owner or grantor, called the lord, retained ownership to the land but not the land itself; the vassal held the land without ownership thereto. Hence two persons, the lord and his vassal had at one and the same time perpetual rights of a different nature to the land itself.

Planiol then explains how the vassal was transformed into the owner.

Originally the holder was not the owner; the ownership remained in the hands of the grantor who was the true lord of the land; the holder had no more than a right or enjoyment on the property which was not his. Little by little, however, due to the extension and the perpetuity of his right, it became customary to consider the holder as the owner and his holding was given the name of ownership (*dominium*). In this way two owners over one and the same thing were created without it being possible to differentiate between them since their rights were not of the same nature. In order to distinguish them the ownership of the lord was called the *dominium directum* and that of the vassal the *dominium utile*.

Lastly, Planiol explains in his exposition how the lord ceased to be the owner.

Later, when the right of the vassal had been transformed into ownership, that of the lord underwent an inverse transformation. The lord was

the victim of a sort of expropriation, the vassal holder or grantee came to be considered as the sole true owner because he had all the real advantages of ownership. The direct ownership merely appeared then as a kind of easement, a charge on another's property, of which it would be advisable to free the land. Thus, the feudal grants, which at first left ownership in the grantor, later worked the disintegration of ownership into *dominium directum* and *dominium utile* and lastly, the disseisen of the property which passed from grantor to the holder. This evolution was operated without any upheaval, through the slow but powerful development of historical phenomena (P. Viollet), but prior to this the revolution had taken place.

Planiol illustrates his exposition with three examples of dates corresponding to each of the periods he cites. They show clearly the several conceptions which *dominium directum* enjoyed in those epochs, until it reached that which it at present has. They are as follows:

(A) Denis Dupont (Pontanus) who lived in the 16th Century writes: "*Dominium duplex est, directum et utile. Directum id est quod verum, propium ac principalem dominium est . . . cui itiam directo dominio proprietatis tantum appellatio convenit, nunquam utile.*" (*Commentarii in Consuet. Blesesen*, Art. 33.) Doumoulin in similar language thus defined the feudal agreement: "*Translatio utilis dominii, proprietate retenta . . .*" (De Feudis, n/o 114). And Cujas says: "*Feudum est jus fundo alieno utendi fruendi.*" (De Feudis, lib. 1 proemium.) It is thus seen that as far back as the 16th Century it was acknowledged that the vassal or holder did not own the land and hence was not the owner.

(B) Under Louis XIV, Hévin, a Breton feudal writer, wrote as follows:

There is no easement either in favor of the lord or of the vassal, and no one enjoys anything belonging to another by way of easement. The lord retains the *dominium directum*, which gives him the following rights: fealty, homage, ransom and rents; and the vassal enjoys the *dominium utile* and the property itself, with the advantages which this entailed, without receiving the benefits thereof by virtue of an easement imposed upon the property of his lord; his enjoyment is in his own right, *jure proprietatis et perpetuo*.

In the 17th century both parties were considered as owners on equal terms.

(C) Pothier, in the 18th century, does not hesitate to say:

Dominium directum is no more than an ownership of superiority, and is no more than the right which the lords have to be recognized as lords by the holders of hereditaments held by them and to demand certain duties and rents in recognition of their overlordships. This species of *dominium* is not the ownership of property which is to be considered in the present work . . . With regard to hereditaments, it is the *dominium utile* which is known as the ownership of property. He who holds this ownership is called the owner. He who owns the *dominium directum* is known merely as the lord . . . It is not the latter but rather the beneficial owner who is, properly speaking, the owner of the hereditament.

The doctrine above set forth by Planiol with such clearness and precision leaves no doubt in the mind as to the juridical nature and effects of *dominium directum*. This doctrine refers to the whole system of continental law, which had its origin in the Roman epoch, was slowly modified in the middle ages, and was developed not only in France but in Spain as well. Inasmuch, therefore, as the Spanish legal system and the general European system constitute the historical foundation of our national jurisprudence, this antecedent should be applied in the interpretation of the constitutional text in arriving at the conclusion that when the constitutional assembly of Querétaro granted to the Nation the *dominium directum* of the petroleum deposits, it did not mean to grant the Nation ownership therein but only a better right based on the sovereignty which the Nation enjoys as a political state and as an entity according to the law of nations. Article 27 of the Constitution recognizes this when it says—

The ownership of lands and waters comprised within the limits of national territory is vested originally in the Nation which has had and has the right to transmit *dominium* thereof to private persons, thereby constituting private property.

By virtue of its sovereignty the Nation enjoys an original and superior right over lands and waters, which authorizes it to constitute private property. In the exercise of this authority the Mexican Nation and its assignor, the Crown

of Spain, has granted titles of lands, permission for the use of waters, mining titles, etc. One method of exercising this authority was the second article of the mining law of 1909, which reproduced the principle of the former law and granted the owner of the soil the exclusive ownership of fuels of mineral order to be found within the subsoil. In acting in this way the Nation deprived itself of the *dominium utile* of these substances, but it preserved its *dominium directum*. The latter, as we have seen, is not synonymous with the former; it is a superior right, the right of the lord founded on his overlordship, which compels the owner to pay a rent or charge in recognition of such overlordship. To interpret the constitutional provision in any other way would be to violate rights legitimately acquired under express laws.

11. *Conclusions.*—In accordance with the foregoing, the attached project of law herewith submitted creates the right of ownership in petroleum as a right of civil character different from that which is enjoyed by the holder of the surface. This has been realized as a matter of fact, and it is urgent that it be recognized as a matter of law. From the economic point of view the value of the surface land is distinct from the value of the subsoil; each undergoes transformations and should be subject to different regulations. It is accordingly absurd that this distinction should not be established in legislation, which permits the legal acts referring to the ownership of petroleum to be established without confusing them with those which relate solely to the surface. The attached bill provides that the Nation has the *dominium directum* of all petroleum-bearing substances; that the Nation also enjoys the ownership of the petroleum to be found in the subsoil of national lands and in those other lands to which the Government has reserved title; it provides lastly that in so far as private lands are concerned, the ownership of petroleum belongs to the owner of the soil, provided he shall have shown that it is his intention also to hold the subsoil, and provided he pay the rent charge in recognition of the *dominium directum* of the Nation. This rent charge is of a two-fold character; one payable to the Federal Government by the person who develops the subsoil, whether owner or not, and consisting of 5 per cent of the gross products; and the second payable to the State Government and to the municipalities within which are located the lands, to be paid always by the owner, consisting of 5 per cent, either in money or in kind, on the price of the contract entered into for the development of the subsoil. When the owner himself makes the development, the law provides that he should pay 5 per cent of the gross products of the development to the Federal Government as overlord, and another 5 per cent based on the same gross output to the State or municipality within which his land is located.

It is needless to add that in those cases where the Nation is the owner of the deposits, through being also owner of the surface land, or through having reserved title to the subsoil when granting title to the surface, the development may only be carried on by private parties who have obtained permission from the authorities, as granted in the corresponding contract. In such cases the Government should receive an equitable amount based on the price of the contract, one portion of which would go to the Federal Government and another to the State or municipality wherein the lands are located through the assignment made of the right of ownership in the petroleum; such assignment to be temporary because it would otherwise imply a total alienation; it should furthermore, be revocable whenever the concessionaire fails to pay the proper price on the contract. Such price should constitute an exclusive benefit of the State or municipality, whenever the contract involves the subsoil of lands belonging to these [entities?].

V. FISCAL RÉGIME

12. *System proposed.*—The reasons why petroleum has thus far failed as a revenue producer have already been given. This situation is not only harmful to the Federal and State Governments but is prejudicial to the companies and private individuals interested in the industry.

Any action taken in this matter should accordingly be based on the conciliation of public and private interests alike, within a criterion of justice. To attain this end, it is necessary to remove every obstacle in the way of the enactment of a general measure. Thus economic and legal considerations may be weighed so as to permit of a fitting solution of the petroleum problem from a fiscal point of view.

The solution advanced in the bill herewith submitted comprises:

(1) The creation of a charge of 5 per cent in recognition of the *dominium directum* of the Nation, payable exclusively to the Federal Government by parties engaged in developing petroleum, and to be computed on the gross output of the product;

(2) Authority to the States to charge a rent on contracts of development entered into or to be entered into between the owners and the lessees, such charge to consist of 5 per cent of the amount of the contract, and to be paid by the owners of the soil;

(3) The establishment of the value of the contracts entered into for the development of the subsoil of lands belonging to the Federal Government, the States or the municipalities, such amount to be paid by those who develop the lands to the Federal, State or municipal authorities, as the case may be;

(4) The abolition of all existing taxes, including the stamp tax on crude oil, that of exportation, and all others at present being levied;

(5) The exemption from import dues on machinery and tools necessary to the development of the oil industry in its several lines.

It will be seen that the scheme of the proposed legislation consists in the elimination of every kind of taxation properly so-called, since the charges to which the foregoing paragraphs 1, 2, and 3 refer are charges emanating from the right of the Nation, as has been shown in the preceding chapter (IV). With regard to the charge authorized to be levied by the State, there can be no doubt that it emanates from the *dominium directum* of the Nation, since this affects the petroleum property and exists, as has been explained, as a right superior to ownership. Now, the Federal Constitution vests *dominium directum* in the Nation, which latter by the constitutional pact is formed by the federation of all the States. The national sovereignty, source, and origin of *dominium directum* is exercised by the States in principle, and by the Federal Government in such matters as fall within its jurisdiction. The exercise of the right of *dominium directum* should therefore pertain to the States on terms compatible with the administrative unit selected. On this basis and in so far as relates to the charge or rent which the registered holder should pay in recognition of the national *dominium directum*, it is just that the charge be distributed between the person developing the land and the owner thereof, both of whom enjoy, in their respective relations, this right, turning over to the Federal Government the amount that the lessee should pay and to the State the amount to be paid by the owner of the land. This distribution accords, too, with the Federal principle in the matter of taxation, which reserves to each sovereign State the territorial or land tax. In this way the owner of the land will pay, as is equitable, not only for the value of the surface which represents agricultural wealth, but also for the new value of the subsoil which the land tax has heretofore left untouched. The abolition of the present taxes is an absolute necessity, with a view to eliminating the irregularity arising out of such taxes, which has made them not only contrary to all principles of political economy and of law, but which has even given rise to protests and complaints. A potent reason for the abolition of all existing taxes is the fact that the payment of rents based on overlordship and for the privilege of franchise implies a charge upon the industry, and it would be contrary to economic principles to levy this burden without fittingly compensating the industry by removing taxes at present being levied. It is axiomatic that excessive taxation far from producing substantial returns has the effect of bringing disaster on the industries assessed, and hence of shutting off completely all revenue from this source.

The charges proposed in the bill submitted have the further advantage of being uniform, of being based on the rights of the Nation, and of permitting the development of the industry in such a manner that its returns will continue to increase and will allow the Federal Government, the States and municipalities to organize their finances by assigning to each a proper share in the development of this national wealth.

Such are the general principles underlying the bill herewith submitted. The measure contains other provisions to which it is not thought necessary to refer in this memorandum, both because they deal with less vital questions and because they are sufficiently treated in the notes accompanying the bill.

File No. 812.512/1885

The Ambassador in Mexico (Fletcher) to the Secretary of State

[Telegram]

MEXICO, February 25, 1918, 2 p. m.

806. The Mexican Government has issued a decree fixing taxes as follows on petroleum lands:

First, on petroleum lands being developed by lessees under contracts made prior to May 1, 1917: (?) 10 per cent of the annual rental up to 5 pesos per hectare; 20 per cent of the annual rental from 5 pesos to 10 pesos per hectare; 50 per cent of the annual rentals above 10 pesos per hectare and 5 per cent of all royalties paid by the lessee to the lessor.

Second, on oil lands being developed by the owners of the land: 5 pesos per hectare annually, and 5 per cent of the products annually.

Third, oil lands for which no rental is being paid are taxed 5 pesos per hectare annually, and oil land on which no royalties are being paid are taxed 5 per cent of the products annually.

FLETCHER

File No. 812.6363/344

The Secretary of State to the Ambassador in Mexico (Fletcher)

[Telegram]

WASHINGTON, February 25, 1918, 5 p. m.

795. See Tampico's February 19, 8 p. m., and inform Mexican Government of seizure by Mexican troops of draft animals, money, and commissary supplies, without their offering payment or receipt to oil companies, and request Government to issue orders to appropriate authorities in Tampico district to return animals, money, and supplies to companies or adequately to compensate companies concerned.

LANSING

File No. 812.512/1885

The Secretary of State to the Ambassador in Mexico (Fletcher)

[Telegram]

WASHINGTON, February 27, 1918, 7 p. m.

804. Your 806, February 25, 2 p. m. Oil interests assert new decree will wreck companies operating in Tampico oil fields, and paralyze industries in United States engaged in war contracts, and will also seriously interfere with Allied naval operations. Department leaves it to your discretion to make such representations as you deem expedient to the end that decree be suspended for 30 days, so that this Government can examine decree in behalf of its nationals. Copy of decree should be forwarded without delay. Advise by telegraph what action, if any, you take, and state what your view is as to position taken by oil companies.

LANSING

File No. 812.6363/363a

The Secretary of State to the Ambassador in Mexico (Fletcher)

[Telegram]

WASHINGTON, February 28, 1918, 5 p. m.

805. Department presumes Dawson's telegrams are reaching you promptly, and therefore does not repeat his telegrams to you. Does this meet with your approval?

Department desires from time to time, as developments occur, your views, by telegraph, on situation in oil fields, as well as on political situation in Mexico City.

LANSING

File No. 812.512/1888

The Ambassador in Mexico (Fletcher) to the Secretary of State

[Telegram]

MEXICO, March 1, 1918, 7 p. m.

820. Department's telegram 804, February 27, 7 p. m., and my 806 February 25, 2 p. m., on the subject of new petroleum tax law dated 19th February. Copy of decree was forwarded 27th instant and copy and translation of official text will be sent in to-morrow's pouch. I am unable to estimate effect new decree will have upon the oil companies, as the larger companies with the exception of the Aguila are not represented here and data as to the leases and lands held by them is not available to me. I am informed however that Pani, the author of the law, estimated that the Mexican Petroleum Co. would have to pay \$1,600,000 under it and that said company because of its large contract holdings in fee simple will be the greatest sufferer. I am informed that if the privilege of exacting payment in kind, which Article 3 of the decree provides may be done with respect to 50 per cent of all royalties, is availed of by the Mexican Government, it will mean the withdrawal of about 200,000 barrels of oil per month from ordinary channels. I think it highly advisable that all Allied oil interests adopt identical attitude with regard to this new decree. Representatives of principal English interests, Mr. Bodg and Mr. Ryder, are at present in New York and can be reached through the British Embassy.

I have to-day asked the Minister for Foreign Affairs whether, in view of the suddenness [of] the issue [of] the decree, the complications which are bound to arise in its regard and its far reaching effect generally, the Mexican Government will not only postpone application of this decree 30 days in order that American companies concerned may have had opportunity to study the law. The Minister for Foreign Affairs stated that he could give me no reply without consultation with his colleagues. He said next cabinet meeting would take place next Thursday and by that time at the least he would give me a reply.

The law is vague as to the machinery of collection and it is not clear when the first payment will fall due, although Article 6 is construed by some to provide for the first payment within the first 15 days of March.

The Minister for Foreign Affairs was inclined to think this is not the case, but was also vague. According to Article 17, taxes not paid in the terms fixed by this law shall be subject to a fine of 10 per cent for each month of delayed payment. There is some apprehension that if the taxes should not be paid by the companies, the Government will resort to a refusal of clearance to oil ships in order to compel payment. Should this occur, necessity will arise for concerted and energetic action on the part of the British and American Governments.

FLETCHER

File No. 812.512/1894

The Ambassador in Mexico (Fletcher) to the Secretary of State

No. 815

MEXICO, March 1, 1918.

SIR: Continuing my No. 812 of February 27, 1918,¹ enclosing the unofficial text of the Presidential decree fixing taxes on petroleum lands, and confirming my telegram No. 820 of March 1, 7 p. m., I have the honor to enclose, herewith, copy of the official text of said decree as published in the *Diario Oficial* under date of February 27, accompanied by an English translation.

After a conference with Mr. Hutchison of the Aguila Oil Co., from whom I learned that General Aguilar, the Minister for Foreign Affairs, had unsuccessfully opposed the new decree when under discussion by the Cabinet, I decided to call upon the Minister for Foreign Affairs to ask if it would be possible to postpone the application of the new law for 30 days. He was vague and non-committal; he could not inform me when the law would go into effect, but promised that he would take the matter up with the President and his colleagues at the first opportunity. He said the next cabinet meeting would take place next Thursday and that by that time, at the latest, he would give me a definite reply.

In this connection, he handed me a printed copy of the petroleum bill which, as Governor of the State of Vera Cruz, he had presented to the Legislature of that State for the purpose of being sent to the National Congress.¹ This bill, I have been given to understand by representatives of American and British oil interests, is open to very little objection on their part. A synopsis of General Aguilar's argument in support of the bill was forwarded in translation with the Embassy's No. 797 of February 20, and I now enclose the complete bill as presented to me by General Aguilar.² It is generally understood that the issuance of the latest petroleum decree is a triumph of Mr. Pani and the radicals. Mr. Nieto was absent in the United States when the decree was issued.

The Department will observe that the decree applies only on oil leases executed prior to the first of May last. This is taken to mean that leases executed since that date—the day on which the new Constitution of Mexico went into effect—are considered by the Government null and void.

¹ Not printed.

² Not printed. For synopsis see *ante*, p. 689.

From a legal aspect, the new decree is possibly open to objection on the grounds: (1) That while it is based on the special financial powers delegated to the President by Congress, it exceeds those powers by attempting to legislate on matters other than fiscal; (2) that it provides for payment in kind; (3) that the amount of the tax may be considered confiscatory; and (4) that lessees are held liable for payments assessed against owners, without adequate provision for their repayment.

In practice, the provision obliging lessees to pay the tax and deduct same from the owners, is likely to provoke serious difficulties and conflicts; in many cases the owners have not accepted the Carranza régime and live in territory not controlled by his forces, and will seriously object to giving the lessees credit on contracts for the amount of these taxes. The lessee, on the other hand, can be compelled by the Government to pay the tax for the owner, and may thus be obliged to cancel their contracts or pay this tax in addition to the rent or royalties stipulated in their leases. It is possible that the fact that the owners of oil lands are in many cases outside the jurisdiction of the present Government was an additional reason for making the lessee responsible for the owner's taxes.

Both *Excelsior* and *El Universal* have had leading articles criticizing and condemning the new law, and there is every indication that there will be a storm of protest from the Mexican petroleum landowners and Mexicans interested in the oil industry.

As suggested in my telegram, I think it is highly advisable that the oil interests, irrespective of nationality, act as a unit with respect to their compliance or non-compliance of this decree. It would seem to me that the legal objections which I have pointed out, and others which will no doubt occur to the expert counsel of the oil companies, give sufficient ground for testing the legality of this decree in the courts.

According to Article 17, taxes not paid as provided by the decree, shall be subject to a fine of 10 per cent, for each month of delayed payment, and the companies would have to decide to run the risk of liability for this additional amount in case they decided to appeal to the courts. In this connection, some apprehension has been expressed lest the Mexican Government would attempt to force payment by the companies—irrespective of any action in the courts—by refusing to give clearance papers to the oil companies' ships until the taxes were paid. This procedure was resorted to, as the Department will remember, in connection with the dredging contributions imposed on the oil companies using the Panuco River, and, as suggested in my telegram, our Government, as well as that of Great Britain, may be called upon to take a definite and energetic stand in this regard. If the Mexican Government should receive the impression that the British and American Governments are indifferent or lukewarm in the matter, it will have no difficulty in finding means of compelling compliance on the part of the companies.

The enforcement of this Executive decree will raise the whole question as to Article 27 of the new Constitution, and it would seem that the Governments of the United States and Great Britain will soon be called upon to decide how far they are willing to go in support of the interests involved. Should the Mexican Government

proceed to the nationalization of the petroleum industry as contemplated by Article 27, and towards which this decree is regarded by many as the first step, the oil supply of the Allied Governments would be placed in serious jeopardy.

Finally, I beg to remind the Department that at the inception of the negotiations recently carried on in Washington between representatives of the Mexican and United States Governments, Messrs. Bonillas and Nieto handed to me a memorandum outlining the points on which they hoped to secure a modification of the export restrictions of the United States, in which it was stated that, "the Mexican Government, on its part, will permit the exportation into the United States of the following commodities, during the time and in the form agreed to in the negotiations, without increasing disproportionately the existing export duties"; there followed a list of such articles, which included petroleum and its derivatives. On reading this statement, I distinctly asked the Mexican representatives whether my Government could understand that there would be no increase in production taxes as well. In reply, I was informed by Mr. Nieto that such was the case, and that the non-increase referred to would cover production as well as export taxes. It is true that the negotiations have not been concluded, and that the Mexican Government may not consider itself bound by these statements of its representatives during the conversations in Washington; nevertheless, it has occurred to me that the Department may wish to avail itself of the pending negotiations in connection with the subject matter of this despatch.

I have [etc.]

HENRY P. FLETCHER

[Enclosure—Translation]

Decree of President Carranza fixing taxes on petroleum lands

Venustiano Carranza, Constitutional President of the United Mexican States to the people, know ye,

That, using the extraordinary powers in the Ministry of Finance vested in me by Congress, I have issued the following decree:

ARTICLE 1. A tax is established on oil lands and on oil contracts executed prior to May 1, 1917, having for their object the leasing of lands for the exploitation of carbides of hydrogen or permission to do so under an onerous title.

ART. 2. The annual rentals stipulated in the contracts cited in Article 1 shall be taxed in the following proportion:

(a) Those of five pesos per annum per hectare or less, with ten per cent of their value.

(b) Those of more than five pesos and less than ten, per hectare and per annum, with ten per cent the first five pesos and with twenty per cent the rest.

(c) Rents greater than ten pesos per annum per hectare, with ten per cent the first five pesos, with twenty per cent the next five pesos, and with fifty per cent anything exceeding the first ten pesos.

ART. 3. All royalties stipulated in oil contracts are charged with fifty per cent of their value, in cash or in kind, as may be determined by the Department of the Treasury.

ART. 4. Properties worked by surface landowners are charged with an annual rental of five pesos per hectare and besides with a royalty of five per cent of the products, in cash or in kind, as may in each case be determined by the Department of the Treasury.

ART. 5. The Department of the Treasury shall advise taxpayers during the last fortnight of each bimonthly period if they are to pay in cash or in kind the royalty corresponding to the bimonthly production ending in that fortnight.

ART. 6. The taxes fixed in Article 2 shall be paid at the local stamp offices in the jurisdiction the lands belong to and should such lands belong to various jurisdictions, at the office appointed by the Department of the Treasury, after consulting the taxpayer. This payment shall be made in advance in the first fortnight of each bimonthly period.

ART. 7. The royalties payable in cash shall be deposited at the offices cited in the preceding article on the same dates set therein at the end of each two months.

ART. 8. Payments of amounts mentioned in Articles 2, 3, and 4 shall be made using special stamps marked "Oil Revenues".

ART. 9. Payers of taxes established in this law must present within the first fortnight of each bimonthly period a statement according to the authorized form of the general stamp office, giving rentals, production, and other necessary data for assessing taxes. These statements shall be made before the stamp offices referred to in Article 6.

ART. 10. Transfer of contracts chargeable under this law shall be notified to the same offices mentioned in Article 6 within thirty days after execution. Besides this obligation the contracting parties must immediately notify the general stamp office through the notaries before whom such transactions are effected.

ART. 11. All amounts corresponding to royalties or their fractions payable in kind shall be delivered at any of the storage stations belonging to the operator, as desired by the Department of the Treasury, which shall designate the place of delivery simultaneously with this form of payment.

ART. 12. When the royalties or fractions are payable in cash they shall be estimated taking the fiscal values of the products at ports of shipment as fixed by the bimonthly tariffs of the Department of the Treasury and deducting the cost of transportation by pipe line, according to the distance of the field of production from the port of shipment and the average public tariff authorized by the Department of Industry, Commerce, and Labor for pipe lines in the district under consideration. The tax department of the Department of the Treasury must duly advise the local stamp offices as to the aforementioned values, so that such offices may judge the returns.

ART. 13. For oil lands not actually paying rent five pesos per annum per hectare shall be paid, and for those at present not paying royalty, five per cent of the products. Payments mentioned in this article shall be made under the same conditions which this law provides for other taxpayers.

ART. 14. Landowners who desire to work for their own account subsoil petroleum deposits and have not made any oil contract, as well as the last cessionaries of the right of exploitation in contracts mentioned in Article 1 of this law, shall make a statement within three months from the promulgation hereof, with certified copies of their contracts of purchase, of lease, or of any other kind, to the Department of Industry, Commerce, and Labor, which will examine such statements and reject those containing unsupported facts. During this term all oil properties will be considered vacant which have not been registered in the form prescribed in this article, their denunciation and exploitation being governed by the regulations to be issued which shall determine those liable for the payment of taxes.

ART. 15. Contracts referred to in this law must be embodied in public deeds and those executed in private shall only be valid when the importance of the business does not require the formality of a public deed and when by other means of unquestionable evidence they are shown to have been really executed on the dates indicated and with the clauses therein contained.

ART. 16. The royalties established in this law, fractions of the royalty fixed in Article 3, the tax on rentals fixed in Article 2 and the other rentals established in this same law shall be paid at the local stamp offices by the operators or the last cessionaries to the right of exploitation who when making payments to intermediaries or owners shall deduct the proportional part of the taxes corresponding to the latter so that the rentals and Federal royalties be distributed in the same proportion as the rentals and royalties now established on oil lands in the various existing contracts for oil exploitation.

ART. 17. Taxes not paid in the terms fixed by this law shall be subject to a fine of ten per cent for each month of delayed payment.

ART. 18. The proceeds of this tax shall be distributed as follows: sixty per cent to the Federal Government; twenty per cent to the State Governments; twenty per cent to the respective municipalities, taking into account the situation of the

lands. When they are in two or more municipalities or two or more states the Finance Ministry shall distribute the tax taking into consideration the area in each jurisdiction, situation of the wells and their output and other circumstances.

ART. 19. Transgressions of the precepts of this law shall be punished by fines varying from fifty to a thousand pesos, according to the seriousness of the case which will go to the courts should there be fraud to prosecute.

ART. 20. This law will become effective from the date of its promulgation.

Therefore, I hereby order that the same be printed, published, circulated, and given due compliance.

Given in the National Palace of the Executive Power, in Mexico, on the nineteenth day of February, one thousand nine hundred and eighteen.

V. CARRANZA [RUBRIC]

File No. 812.6363/370

The Ambassador in Mexico (Fletcher) to the Secretary of State

No. 832

MEXICO, March 13, 1918.

SIR: With reference to the Department's telegram 795 of February 25, 5 p. m., I have the honor to report that, in reply to the Embassy's representations regarding the reported seizure by Mexican troops of draft animals, money, and commissary supplies belonging to oil companies in the Tampico district, the Foreign Office states in a note dated the 6th instant that on that date the matter was brought to the attention of the Secretary of War in order that orders might be issued to afford adequate guarantees and to avoid the commission of further depredations.

I have [etc.]

HENRY P. FLETCHER

File No. 612.119/1040

The Secretary of State to the Ambassador in Mexico (Fletcher)

[Telegram—Extract¹]

WASHINGTON, March 15, 1918, 8 p. m.

883. . . . (3) The Government of the United States, respecting as it does the property rights of Mexicans within the territorial boundaries of the United States, expects that the property rights of citizens of the United States within the territorial limits of Mexico will be protected by the Government of Mexico against injury and confiscation. In particular, the Government of the United States would be unwilling to conclude with the Mexican Government any arrangement for mutual exchange of commodities which failed to recognize the just rights of Mexican owners of private property in the United States and by [of] citizens of the United States in Mexico. In this connection, Department is forwarding you by telegraph its views concerning the legal features of the Mexican decree of February 19, 1918, taxing oil lands. This Government cannot acquiesce in any action taken by the Mexican Government whereby legitimate vested American interests are appropriated by Mexico. . . .

LANSING

¹ Telegram printed in full under "Negotiations for closer commercial relations with Mexico," ante, p. 617.

File No. 812.6363/365

The Ambassador in Mexico (Fletcher) to the Secretary of State

[Telegram]

MEXICO, March 17, 1918, noon.

872. Adverting to last sentence of paragraph numbered three, your 883. In reply to certain questions propounded by the Department of Industry and Commerce with reference to interpretation of Article 27 of the last Constitution as it relates to petroleum, Pastor Rouaix, Secretary of Fomento, who was a member of the constitutional convention at Querétaro and principally responsible for the adoption of this article, has replied officially to the effect that the said Constitution restored the absolute ownership of petroleum and other substances mentioned in Article 27 to the Mexican Nation and repealed all former laws to the contrary on the subject, although proprietors of oil lands may continue to enjoy possession, etc., until the laws shall be passed prescribing the manner in which effect will be given to the Constitution. He also holds that Article 27 cannot be objected to as retroactive because it merely restores the fundamental property rights of the Nation, which, without any right, one of its governments (literally governors) attempted to cede to private individuals.

This opinion would seem to indicate the intention of the Mexican Government to annul all private property rights to petroleum. First installment text translation will be forwarded next Wednesday.

FLETCHER

File No. 812.512/1894

The Secretary of State to the Ambassador in Mexico (Fletcher)

[Telegram]

WASHINGTON, March 19, 1918, noon.

895. Your mail despatch 815, March 1, and prior communications regarding petroleum decree of February 19, 1918. Department has given careful consideration to this decree and will set forth at length its attitude thereon so far as present circumstances permit. This decree provides for the imposition of certain taxes on the surface of oil lands as well as on the rents, royalties, and production derived from the exploitation thereof. Among the provisions for the collection of such taxes is one requiring that payments in kind shall be delivered to the Government at the storage stations of the operator. There are, moreover, indications in the decree, particularly in Articles 4, 13, and 14, of an intention to separate the ownership of the surface from that of the mineral deposits of the subsurface, and to allow the owners of the surface merely a preference in so far as concerns the right to work the deposits upon compliance with conditions specified. It is presumed, therefore, that the decree is issued in pursuance of Article 27 of the Constitution of May 1, 1917, which provides in paragraph 4 that:

In the Nation is vested direct ownership of all minerals or substances which in veins, layers, masses or beds constitute deposits whose nature is different from components of the land, such as solid mineral fuels; petroleum and all hydrocarbons—solid, liquid, or gaseous.

While the United States is not disposed to request for its citizens exemption from the payment of their ordinary and just share of the general burdens of taxation so long as the tax is uniform and not discriminatory in its operation, and can fairly be considered a tax and not a confiscation or unfair imposition; and while the United States is not inclined to interpose in behalf of its citizens in case of the expropriation of private property for sound reasons of public welfare and upon just compensation and by legal proceedings before tribunals allowing fair and equal opportunity to be heard and giving due consideration to American rights; nevertheless the United States can not acquiesce in any procedure ostensibly or nominally in the form of taxation or the exercise of eminent domain, but really resulting in confiscation of private property and arbitrary deprivation of vested rights. This is not, as you will understand, an assertion of any new principle of international law, but merely a reiteration of those recognized principles which I am convinced form the basis of international respect and good neighborhood. The seizure or spoliation of property at the mere will of the sovereign and without due legal process fairly and equitably administered, has always been regarded as a denial of justice and as affording a basis, internationally, of interposition. Certain features of the petroleum decree will be considered in the light of these views.

As much depends upon the operation of the decree in question as to whether the imposition of the taxes therein provided for shall amount virtually to confiscation of American-owned oil properties in Mexico, this Government is not in a position to state definitely that the operation of the decree will, in effect, amount to a confiscation of American interests; nevertheless it is deemed important that the Government of the United States should state the real apprehensions which it entertains as to the possible effect of this decree upon the vested rights of American citizens in oil properties in Mexico. The amount of taxes to be levied under this decree are in themselves a very great burden on the oil industry, and if they are not confiscatory in effect, as to which I reserve opinion, they at least indicate a trend in that direction. It is claimed by certain owners that the taxation borne by the oil fields of Mexico very greatly exceeds that imposed upon the industry anywhere else in the world. Moreover, it is quite possible under the decree and in the absence of storage facilities owned by the Mexican Government for taxes or royalties paid in kind and stored in the tanks of operators to monopolize such storage facilities to the point of practical confiscation thereof until emptied by order of the Mexican Government or by the forced sale of the stored petroleum to the operators at extravagant rates.

It is, however, to the principle involved in the apparent attempt at separation of surface and subsurface rights under this decree that I desire to direct special attention. It would appear that the decree in question is an effort to put into effect as to petroleum lands the clause of the Constitution quoted above, by severing at one stroke the ownership of the petroleum deposits from the ownership of the surface, notwithstanding that the Constitution provides that "private property shall not be expropriated except by reasons of public utility and by means of indemnification." So far as I am aware, no provision has been made for just compensation for such arbitrary divest-

ment of rights, nor for the establishment of any tribunal invested with the functions of determining justly and fairly what indemnification is due to American interests concerned. Moreover there appears not the slightest indication that the separation of mineral rights from surface rights is a matter of public utility upon which the right of expropriation depends, according to the terms of the Constitution itself.

In the absence of the establishment of any procedure looking to the prevention of spoliation of American citizens, and in the absence of any assurance, were such procedure established, that it would not uphold in defiance of international law and justice the arbitrary confiscations of Mexican authorities, it becomes the function of the Government of the United States most earnestly and respectfully to call the attention of the Mexican Government to the necessity which may arise to impel it to protect the property of its citizens in Mexico divested or injuriously affected under the petroleum decree.

The investments of American citizens in the oil properties in Mexico have been made in reliance upon the good faith and justice of the Mexican Government and Mexican laws. I cannot believe, therefore, that the enlightened Government of a neighboring Republic in time of peace and at a stage in its progress when the development of its resources so greatly depends on its maintaining good faith with investors and operators whom it has virtually invited to spend their wealth and energy within its borders, will disregard its clear and just obligations toward them.

I have set forth these views of the United States in respect to this matter for your general information and guidance. Since the actual effect of the operation of the decree is not now in all respects clearly apparent, and since the persons affected may have some recourse to test the legality, including constitutionality, of the decree (which of course they should exhaust), you are instructed to make such use of the communication in the protection of American citizens and their properties as the developing circumstances may cause you to deem prudent and necessary, even to laying it before President Carranza as the formal protest of the Government of the United States. Report action taken.

LANSING

File No. 812.6363/376

The Ambassador in Mexico (Fletcher) to the Secretary of State

No. 852

MEXICO, March 20, 1918.

SIR: As promised in my telegram No. 872 of March 17, 12 noon, I have the honor to forward, herewith, the text and translation of the opinion of Pastor Rouaix, Secretary of Agriculture and Fomento, as to the interpretation of Article 27 of the 1917 Constitution of Mexico, and to invite the Department's careful perusal of same.

Until the Mexican Congress shall pass the necessary regulating act to give effect to this article of the Constitution, the question of expropriation of legally acquired private rights may remain academic, although the recent petroleum decree (see my despatch No. 815 of March 1, 1918), it is claimed, attempts to apply Article 27 without waiting for the regulating legislation.

This opinion of Mr. Rouaix is valuable as showing the arguments on which the Mexican Government will defend its position. The article in question is being bitterly attacked by a large section of the Mexican people and is becoming more and more unpopular as its far-reaching effect, if put into practice, is appreciated. It is not likely that any attempt to pass a law to give effect to this article of the Constitution will be made at the forthcoming special session of Congress, and that nothing along this line will be done until the next regular session of Congress (beginning September 1) at the earliest. Indeed, I think it quite possible that the Government will find it very difficult, in view of the growing opposition to Article 27, to pass the required legislation in any Congress. I have the honor to suggest, therefore, that the Department delay such representations as it may have to make on the subject, until the bills to put this article into effect seem likely to be passed by the Mexican Congress, and then—perhaps in conjunction with other governments whose nationals may be similarly affected—to invite the Mexican Government to delay the proposed legislation until the Mexican Government's pretended right to expropriate private property rights under the Querétaro Constitution may be submitted to international arbitration.

Of course, if the present Government should seek to give effect to this article without awaiting action by Congress—as it is claimed it has done in the recent petroleum decree, but which I think open to question—our Government might find itself compelled to act more quickly.

I have [etc.]

HENRY P. FLETCHER

[Enclosure—Translation]

The opinion of the Mexican Secretary of Agriculture and Fomento (Rouaix) as to the interpretation of Article 27 of the 1917 Constitution of Mexico¹

MEXICO, March 18, 1918.

DEAR SIRS AND FRIENDS: I have been pleased to receive your letter of the 4th instant, regarding the just and legal interpretation which should be given to the term *dominium directum* as used by the framers of the Constitution in Article 27 of our present Fundamental Charta. I take pleasure in replying to the questions contained in your letter.

I should state now that I consider myself sufficiently qualified to answer the queries in your letter because, as you undoubtedly know, I had the satisfaction in the Constitutional Convention to be the initiator of the project of Article 27, having made a primary study of the same in company with Messrs. José I. Lugo, José N. Macías, and Andrés Moilna Enriquez (attorneys), and this project was submitted for consideration to a group of delegates who were making a special study of the so-called agrarian problem. We, the initiators, took note during the discussions which were held at my home, of the propositions and amendments suggested by those present, and in this manner the project, drafted in the form of a bill, was signed by those who attended the meetings.

Later, when the bill was sent to committee, I also had the satisfaction of discussing with the members thereof, Messrs. Francisco J. Múgica (general), Enrique Colunga (attorney), Alberto Román (doctor), Luis G. Monzón, and Enrique Recio (attorney), the amendments which were proposed in the committee.

¹ This opinion was written in reply to the letter of three engineers of the Mexican Department of Industry, Commerce, and Labor, requesting an interpretation of the spirit of Article 27 of the Constitution in so far as petroleum was concerned. It appeared in *El Nacional*, Saturday, March 16, 1918.

In view of this, I believe that the opinion which I now give reflects the ideas and spirit which inspired the group of delegates who initiated the project, and I believe also that I interpret the opinion of the committee which drew up the final bill, which was approved by the convention with but few changes.

I now reply to the questions addressed to me:

1. Did the committee over which you presided, and which presented the bill covering Article 27 of the Constitution, to the Constitutional Convention of Querétaro, understand the term *dominium directum* to be equivalent to that of "ownership", or did it make a distinction between them?

2. Should the terms *dominium directum* and "ownership" not have the same meaning, please state the difference.

The fundamental idea of Article 27 was to establish the principle that lands, waters, and natural products obtained therefrom, belonged to the Nation, which had the right to cede the *dominium* over them to private parties, and thus create private property. From this are derived two fundamental principles: The Nation has absolute and complete original ownership over the entire territory and its products. Private property is the cession which the Nation makes of the right of *dominium* over lands and waters in favor of any person, but this, without losing its prerogatives to which, as owner, it is entitled. This principle is established in the first part of Article 27, which says:

The ownership of lands and waters comprised within the limits of the national territory, is vested originally in the Nation, which has had and has, the right to transmit title (*dominium*) thereof to private persons, thereby constituting private property.

And this principle is made complete in specifying the rights which the Nation continues to hold, when it says that:

The Nation shall have at all times the right to impose on private property such limitations as the public interest may demand as well as the right to regulate the development of natural resources, which are susceptible of appropriation, in order to conserve them and equitably to distribute the public wealth.

The above answers the first and second questions of your letter, and defines clearly what the Constitutional Convention understood by ownership and what it meant by *dominium*, be it *directum*, *utile*, or otherwise.

3. In declaring that to the Nation belongs the *dominium directum* of solid mineral fuels, oil, and all hydrocarbons, solid, liquid or gaseous, was it or was it not the intention of the convention to reclaim for the Nation the ownership which it always had of these substances?

With regard to the subsoil products, the Constitutional Convention desired that the rights of the Nation should be more strictly defined, and for that reason employed the term *dominium directum*, thus expressing clearly that, as regards this class of riches, the Nation possessed not only absolute and original ownership over them, but also private ownership. This is distinctly expressed in the paragraphs which I quote below, from which it may be seen that the *dominium* of the Nation—that is, the complete ownership which it has of those products—is inalienable and can not be laid aside, and only by means of concessions and under certain conditions may it cede the use of the said riches to private persons. The Constitution says:

In the Nation is vested *dominium directum* of all minerals or substances which in veins, layers, masses, or beds constitute deposits whose nature is different from the components of the land, such as minerals from which metals and metaloids used for industrial purposes are extracted; beds of precious stones, etc. . . . solid mineral fuels; petroleum and all hydrocarbons, solid, liquid or gaseous.

In the Nation is likewise vested the ownership of the waters of territorial seas . . .

In the cases to which the two foregoing paragraphs refer, the *dominium* of the Nation is inalienable and may not be lost by prescription; concessions can be granted only by the Federal Government to private parties or civil or commercial corporations organized under the laws of Mexico, on condition that said resources be regularly developed, and on the further condition that the legal provisions be observed.

4. Was it or not the intention of the convention to consider the *dominium directum* over mineral fuels, petroleum, and hydrocarbons, solid, liquid and gaseous, as equivalent to the *dominium directum* which the Nation has always held over the other minerals mentioned in Article 1 of the present mining law?

This was the intention of the convention. In including petroleum among the minerals without making any distinction, it is clear that it is placed in the same class and under like conditions as minerals, in so far as the ownership of the Nation is concerned.

5. Did the committee which drew up the bill covering Article 27 of the Constitution understand that Article 2 of the present mining law was annulled by giving to the Nation *dominium directum* over all mineral fuels, petroleum and other hydrocarbons of whatever physical properties?

Without doubt. The Constitution being the supreme and fundamental law, its simple publication annuls all laws opposed to it, even though its effects on the matter affected may be retarded until the issuance of governing regulations, but the principle it opposes is destroyed immediately.

6. Was it the intention of the committee, so worthily presided over by you, in presenting the bill covering Article 27 of the Constitution to the Constitutional Convention at Querétaro, that there shall or shall not continue to exist the disputable rights which private parties believe they possess over petroleum and other hydrocarbons existing in the subsoil of their lands?

As I said before, the effects which the annulment of a law may produce may be retarded until the regulations governing are issued, and, therefore, in the case of petroleum, those who held ownership over the land at the time the Constitution was proclaimed, may continue to hold possession thereof until the issuance of the laws which prescribe the manner in which the law shall be applied; and that is precisely what has taken place to date, in that the Federal Government has not endeavored to alter the usage of such products with relation to the manner in which they were formerly used, but from the moment the Constitution was promulgated, the legal ownership of petroleum and other hydrocarbons was returned to the Nation.

7. In reclaiming under the new Constitution the rights of the Nation over solid mineral fuels, over petroleum, and over other hydrocarbons, solid, liquid, or gaseous, does or does not this produce retroactive effects?

This question, or better said, the argument regarding the retroactive effects of the Constitution, has been used by all the enemies of the Revolution, presenting it with more or less ability, but always in the nature of a great sophism.

It is known that the real rights, from the juridical point of view, which the Nation has over the territory and its products, are based on the rights which were taken over from the Crown of Castilla with regard to the territory of New Spain. The Spanish Monarch was vested with the rights of ownership of the lands, waters, minerals, and liquids of the ground, and for that reason he was the only one empowered to grant the usufruct of the riches and the ownership of the lands to his vassals. This is the fundamental principle of the Nation's ownership. After the declaration of independence, the rights of the Crown of Spain passed to the Nation, which was the successor of the Royal Spanish Crown, and, therefore, the Nation has been the one to continue giving titles to lands which had not been ceded, and granting concessions to mines which had not been denounced. Thus it is that the principle of ownership existed first and primarily in the Kings of Spain, and later in the Nation.

Now, referring exclusively to the question of petroleum, it suffices for me to cite the paragraphs which I transcribe, in order to justify the rights of the Nation over these fuels.

The Royal mining orders of the year 1783, Title 5, Article 1, say:

The mines are the property of my Royal Crown, not only because of their nature and origin, but by their inclusion in the Fourth Law, Title 13, Book 6 of the new Recompilation.

And Article 2, under the same title says:

Without separating them from my Royal Patrimony, I grant them to my vassals in ownership and possession, in such manner that they can sell, exchange, rent, donate, or leave as a heritage under testament or mandate, or in any other manner dispose of their rights thereto, under the same conditions as they are possessed and to persons who are able to acquire same.

This principle does not leave room for doubt as to the intentions of the King of Spain, to grant only the *dominium utile* to the mines, and it is clearly expressed by the words with which the article opens, i. e., "without separating them from my Royal Patrimony . . ."

Among the substances which are included in the general terms "mines" and which can be denounced, are included the hydrocarbons, called at that time bitumens, as will be seen from the following paragraph taken from the same orders, Article 22, Title 6, reading:

I also grant permission to discover, solicit, register, and denounce in the manner stated, not only gold and silver mines, but also those of precious stones, copper, lead, tin, quicksilver, calamine stone, bismuth, rock salt, and any other fossils, either perfect metals or semi-metals, bitumens, or earth juices, granting money and labor for their development, in the provinces where they exist.

This is what came to form afterwards, the indisputable right of the Nation over these riches, which legally can not be destroyed by a simple law, because in this case, as in that of lands and waters, the question is that of certain rights which are fundamental in the Constitution of the Nation, and which are the basis on which the subsequent rights of the Mexican Governments were established. Therefore, no retroactive effect exists in Article 27, as all it does is to recover and reconstitute the fundamental ownerships of the Nation, which one of its rulers, without right, endeavored to cede to private individuals.

Retroaction would have existed had there been demanded an indemnity of those who, without right, were exploiting the natural subsoil products covering all they had enjoyed in usufruct prior to the promulgation of our Magna Charta. This was not done, but its provisions tend to reclaim for the Nation that which belonged to the Nation.

Trusting to have answered your inquiries, I am [etc.]

PASTOR ROUAIX [RUBRIC]

File No. 812.512/1911

The Ambassador in Mexico (Fletcher) to the Secretary of State

[Telegram]

MEXICO, March 21, 1918, 4 p. m.

890. Your 895, March 19, noon. Please advise me what attitude American oil companies will take with regard to payment of the new petroleum taxes, and the steps, if any, they contemplate taking to test its legality. I am informed that Mexican Government has done nothing as yet to put it into force, and that a new circular is in preparation relating to its enforcement.

My idea is that American companies should exhaust all legal remedies they may have before the matter is brought to the attention of the Mexican Government officially by the United States Government. In this case, I should be informed who the counsel for the American companies are, and should be kept in close touch with the proceedings. Or does the Department wish me to lay protest before Mexican Government immediately, without waiting further action on the part of Mexican officials or the result of such legal proceedings as American companies may institute?

FLETCHER

File No. 812.512/1915

The Secretary of State to the Ambassador in Mexico (Fletcher)

[Telegarm]

WASHINGTON, April 1, 1918, 6 p. m.

936. Department's No. 895, March 19, noon, petroleum law. Your attention is called to decree reported to have been recently issued by Department of Industry and Commerce, and published in *El Universal*, March 15, providing that if statements are not submitted in accordance with provisions Article 14 of law, owners and lessees will not be permitted to perform any work of development.

LANSING

File No. 812.512/1926

The Ambassador in Mexico (Fletcher) to the Secretary of State

[Telegarm]

MEXICO, April 2, 1918, 2 p. m.

931. Your 936, April 1, 6 p. m. Copy and translation of circular goes forward in to-morrow's pouch. In my opinion American operators would not be prejudiced against compliance with this particular circular, as the Mexican Government would seem to be entitled to data required independently of the question of payment of taxes imposed by decree.

FLETCHER

File No. 812.512/1935

The Ambassador in Mexico (Fletcher) to the Secretary of State

No. 890

MEXICO, April 3, 1918.

SIR: In continuation of my No. 815 of March 1 last, and in compliance with the Department's telegraphic instructions Nos. 895, March 19, and 915, March 26,¹ I have the honor to enclose a copy of my note No. 290 of April 2, 1918, embodying the views of the Department and the formal protest of the Government of the United States against the violation or infringement of legitimately acquired American private property rights involved in the enforcement of the petroleum decree of the 19th of February last.

I called upon the Minister for Foreign Affairs on Monday morning, to inform him, as directed by your telegraphic instruction 895, of the instructions which I had received with regard to this decree, and I reminded him that he had informed me in a previous interview that it was possible that some modifications might be made in the said decree. He answered that a circular had been or was being prepared, which would clarify certain features of the decree, but would make no modifications in substance, and that it was the Government's intention to put the decree into effect. Therefore, as reported in my telegram 925 of April 1,¹ and as instructed by the Department, I addressed to him the formal protest enclosed.

In this connection, I enclose a copy and translation of the circular issued by the Department of Industry, Commerce, and Labor, dated

¹ Not printed.

March 11, 1918, clarifying Article 14 of the decree of February 19 last, to which reference was made in my telegram No. 890 of March 21, the Department's 936, April 1, and my 925, April 1.

I have [etc.]

HENRY P. FLETCHER

[Enclosure 1]

The American Ambassador (Fletcher) to the Mexican Secretary of State for Foreign Affairs (Aguilar)

No. 290

MEXICO, April 2, 1918.

EXCELLENCY: The decree of the 19th of February, 1918, which was published in the *Diario Oficial* on the 27th of February last, establishing a tax on oil lands and on oil contracts executed prior to the first of May 1917, etc., has been brought to the attention of my Government, and I am under instructions to state to your excellency that my Government has given most careful consideration to the effect which this decree, if carried into operation, will have upon American interests and property rights in Mexico.

The said decree provides for the imposition of certain taxes on the surface of oil lands, as well as on the rents, royalties, and production derived from the exploitation thereof. It is noted also that among the provisions for the collection of such taxes is one requiring that payment in kind shall be delivered to the Mexican Government at the storage stations of the operators. Articles 4, 13, 14 of the said decree seem to indicate an intention to separate the ownership of the surface from that of the mineral deposits of the subsurface, and to allow the owners of the surface a mere preference in so far as concerns the right to work the subsoil deposits upon compliance with certain conditions which are specified. While the United States Government is not disposed to request for its citizens exemption from the payment of their ordinary and just share of the burdens of taxation so long as the tax is uniform and not discriminatory in its operation, and can fairly be considered a tax and not a confiscation or unfair imposition, and while the United States Government is not inclined to interpose in behalf of its citizens in case of expropriation of private property for sound reasons of public welfare, and upon just compensation and by legal proceedings before tribunals, allowing fair and equal opportunity to be heard and giving due consideration to American rights, nevertheless, the United States can not acquiesce in any procedure ostensibly or nominally in the form of taxation or the exercise of eminent domain, but really resulting in confiscation of private property and arbitrary deprivation of vested rights.

Your excellency will understand that this is not an assertion of any new principle of international law, but merely a reiteration of those recognized principles which my Government is convinced form the basis of international respect and good neighborhood. The seizure or spoliation of property at the mere will of the sovereign and without due legal process fairly and equitably administered, has always been regarded as a denial of justice and as affording internationally a basis of interposition.

My Government is not in a position to state definitely that the operation of the aforementioned decree will, in effect, amount to confiscation of American interests. Nevertheless, it is deemed important that the Government of the United States should state at this time the real apprehension which it entertains as to the possible effect of this decree upon the vested rights of American citizens in oil properties in Mexico. The amount of taxes to be levied by this decree are in themselves a very great burden on the oil industry, and if they are not confiscatory in effect—and as to this my Government reserves opinion—they at least indicate a trend in that direction. It is represented to the State Department that the taxation borne by the oil fields of Mexico very greatly exceeds that imposed on the industry anywhere else in the world. Moreover, it would be possible under the terms of the decree, in view of the fact that the Mexican Government has not storage facilities for the taxes or royalties required to be paid in kind, by storing the same in the tanks of the operators, to monopolize such storage facilities to the point of the practical confiscation thereof until emptied by order of the Mexican Government or by the forced sale of the stored petroleum to the operators at extravagant rates.

It is, however, to the principle involved in the apparent attempt at separation of surface and subsurface rights under this decree, that my Government desires to direct special attention. It would appear that the decree in question is an effort to put into effect, as to petroleum lands, paragraph 4 of Article 27 of the Constitution of May 1, 1917, by severing at one stroke the ownership of the

petroleum deposits from the ownership of the surface, notwithstanding that the Constitution provides that "private property shall not be expropriated except by reason of public utility and by means of indemnification." So far as my Government is aware, no provision has been made by your excellency's Government for just compensation for such arbitrary divestment of rights nor for the establishment of any tribunal invested with the functions of determining justly and fairly what indemnification is due to American interests. Moreover, there appears not the slightest indication that the separation of mineral rights from surface rights is a matter of public utility upon which the right of expropriation depends, according to the terms of the Constitution itself. In the absence of the establishment of any procedure looking to the prevention of spoliation of American citizens and in the absence of any assurance, were such procedure established, that it would not uphold in defiance of international law and justice the arbitrary confiscations of Mexican authorities, it becomes the function of the Government of the United States most earnestly and respectfully to call the attention of the Mexican Government to the necessity which may arise to compel it to protect the property of its citizens in Mexico divested or injuriously affected by the decree above cited.

The investments of American citizens in the oil properties in Mexico have been made in reliance upon good faith and justice of the Mexican Government and Mexican laws, and my Government can not believe that the enlightened Government of a neighboring Republic at peace and at a stage in its progress when the development of its resources so greatly depends on its maintaining good faith with investors and operators, whom it has virtually invited to spend their wealth and energy within its borders, will disregard its clear and just obligations toward them.

Acting under instructions, I have the honor to request your excellency to be good enough to lay before his excellency the President of Mexico, this formal and solemn protest of the Government of the United States, against the violation or infringement of legitimately acquired American private property rights involved in the enforcement of the said decree.

Accept [etc.]

[File copy not signed]

[Enclosure 2—Translation]

Circular No. 5 of March 11, 1918, relative to the tax on petroleum lands and petroleum contracts¹

In order that parties interested may give due compliance to the provisions of Article 14 of the decree issued on the 19th ultimo by the Constitutional President of the United Mexican States, relative to the tax established on petroleum lands and on petroleum contracts having for their object the lease of lots for the exploitation of petroleum and other hydrocarbons which may exist in the subsoil, this Department makes known to the companies and persons interested in the petroleum industry that the declarations they are obliged to present within the period and under the conditions indicated in Article 14 of the said decree, shall be made in triplicate, on unstamped paper, and shall contain the following information:

GENERAL DATA

1. Name of the company or person;
2. Residence; city, street, and number;
3. Present board of directors;
4. Representative or person empowered to transact business with the Department of Industry, Commerce, and Labor.

PROPERTIES OWNED

5. Location, giving name, number of the lot, *hacienda*, municipality, canton or district, and State;
6. Date of acquisition;
7. Area;
8. Seller;
9. Price of purchase;

¹ *Diario Oficial*, March 18, 1918.

10. Plan or description of boundaries, indicating the names of surrounding lands and of their owners.

LANDS UNDER LEASE

11. Location, giving name, number of lot, *hacienda*, municipality, canton or district, and State;
12. Area;
13. Plans or description of boundaries, indicating the names of surrounding lands and of their owners;
14. Owner of land;
15. Date on which the owner of the surface made the lease;
16. Date on which the declarant made the contract;
17. Length of contract;
18. Rental, dominion, and other conditions.

The companies or persons, either the present exploiters or the last concessionaires of the right to exploit the subsoil of the leased lands, who should not present their declarations within the period indicated in Article 14 of the decree to which the circular refers, shall not be allowed to perform any work thereon, and shall be caused to suspend such work as they may have been doing on the lots covering which they may not submit declarations; this without prejudice to the imposition of the penalties stipulated by the said decree.

Constitution and Reforms. Mexico, March 11, 1918.

Secretary, A. J. PANI [RUBRIC]

File No. 812.512/1924

The Secretary of State to the Ambassador in Mexico (Fletcher)

[Telegram]

WASHINGTON, April 4, 1918, 6 p. m.

948. Your 925, April 1, 3 p. m.¹ From your despatch 852 of March 20 it appears that Rouaix asserts that he initiated before Constitutional Assembly draft of Article 27 of Constitution and assumes to give an authoritative interpretation of the idea *dominium directum* contained in that article, as applying to petroleum and other subsoil deposits. Rouaix states these words signify that ownership in such deposits, both "absolute and original", as well as "private", is vested in the nation, and adds that by promulgation of Constitution all laws in conflict therewith were immediately repealed, including, of course, those recognizing the right of the owner of the surface to subsurface deposits. In view of Rouaix's connection with the Government and the authoritative nature of this interpretation, it seems clearly to establish correctness of opinion expressed by Department in its 895, March 19, noon, that promulgation of petroleum decree involves arbitrary attempt to separate surface and subsoil rights, thus divesting owners of their property without due process of law, and in disregard of Constitutional provision that "private property shall not be expropriated except by reasons of public utility and by means of indemnification."

You will therefore supplement your representations made pursuant to Department's 895² by a note in the sense of the foregoing, to which you will add that if, as appears, Señor Rouaix has spoken for the Mexican Government, the Government of the United States, on behalf of its citizens who have invested vast sums of money in Mexican petroleum lands, relying, as they had a right to do, upon the laws of Mexico giving to owners of the surface ownership of the sub-

¹ Not printed.

² *Ante*, p. 705.

surface deposits, enters a solemn and emphatic protest against the petroleum decree as an act of confiscation and despoliation, and reserves all rights in the premises.

LANSING

File No. 812.512/1929

The Ambassador in Mexico (Fletcher) to the Secretary of State
[Telegram]

MEXICO, April 8, 1918, 4 p. m.

950. Your 948. Petroleum decree. I shall await your receipt of my mail despatch 890, April 3, enclosing copy of my note of protest which I think covers case fully. If after reading my note Department desires additional protest please instruct.

FLETCHER

File No. 812.6363/380

The Consul at Tampico (Dawson) to the Secretary of State
[Telegram]

TAMPICO, April 14, 1918, 6 p. m.

Oil companies are again complaining of threatening attitude Government troops in southern oil fields. Outrage on American workers already charged to them and as result workers of four companies have almost decided to abandon fields. Commanding General Acosta is now in Tampico and promises guarantees, but promises do not inspire confidence. It is generally believed here that border situation is gradually reaching crisis and this new trouble is related to that agitation. Please advise if border trouble is becoming serious. Embassy advised.

DAWSON

File No. 812.6363/383

The Consul at Tampico (Dawson) to the Secretary of State
[Telegram]

TAMPICO, April 15, 1918, 7 p. m.

Referring to my April 14, 6 p. m. Outrages by Government troops continue and foreign and Mexican workers are actually abandoning fields. Attitude of Government troops so sudden and unexpected that strong suspicion exists of German influence at work. Embassy advised.

DAWSON

The Secretary of State to the Ambassador in Mexico (Fletcher)
[Telegram]

WASHINGTON, April 17, 1918, 7 p. m.

985. See Consul Dawson's April 14, 6 p. m., and April 15, 7 p. m. Bring situation in oil fields as reported therein to attention

Mexican Government, and urgently request it to take prompt steps to extend protection to American life and property in oil fields. Insist upon vigorous action and telegraph result.

LANSING

File No. 812.6363/384

The Ambassador in Mexico (Fletcher) to the Secretary of State
[Telegram]

MEXICO, April 19, 1918, 1 p. m.

983. Your 985, April 18 [17], 7 p. m. Representations made this morning. Minister for Foreign Affairs informs me General Dieguez has been ordered to oil fields and will be instructed in the sense desired by the State Department.

FLETCHER

File No. 812.512/1946

The Ambassador in Mexico (Fletcher) to the Secretary of State
No. 958

MEXICO, April 24, 1918.

SIR: I have the honor to enclose herewith translation of regulations of the Department of Hacienda, as published in *El Universal*, prescribing the declarations to be made under Article 9 of the decree of February 19 this year (reported upon in my despatch No. 890 of April 3), preliminary to the payment of taxes on petroleum lands.

I have [etc.]

HENRY P. FLETCHER

[Enclosure—Translation]

How declarations covering petroleum lands should be made¹

The Department of Hacienda gave out yesterday the manner in which declarations (or statements) shall be made out covering the payment of taxes on petroleum lands.

The statement of petroleum lands being exhibited shall be made to the administrator of the general stamp office by the owner, in compliance with Article 9 of the decree of February 19, this year, covering leases of petroleum lands, and shall be submitted to the stamp offices at Tampico, Vera Cruz, Tuxpan or Puerto, Mexico, depending on the location of the property, or to the general stamp office, upon petition of the taxpayer.

The statement shall contain: (1) The name of the owner; (2) the name of the lot; (3) location of the same; (4) area in hectares; (5) distance of the producing camp to the nearest port of shipment.

The statement covering leased petroleum land shall be made in compliance with the same law and submitted to the same offices, with the following information: (1) Name of the owner of the lot; (2) name of the person or company exploiting or renting same; (3) name of the lot; (4) location; (5) area; (6) date leased by owner; (7) date of contract of last concessionaire; (8) amount of annual rental per hectare stipulated in the last contract; (9) amount of crude oil obtained in the last bimonthly term, in cubic meters; (10) amount of royalty stipulated in the last contract; (11) distance of the producing camp to the port of shipment.

The stamp office will make the corresponding liquidation.

¹*El Universal*, April 18, 1918.

File No. 812.512/1955

The Ambassador in Mexico (Fletcher) to the Secretary of State

No. 985

MEXICO, May 1, 1918.

SIR: With reference to my despatch No. 890 of April 3, 1918, regarding the petroleum decree of the Mexican Government of February 19 this year, I have the honor to transmit to the Department, herewith, the text, with translation, of Circular No. 14 dated April 23, 1918, issued by the Department of Hacienda, fixing a term for the presentation of declarations and paying taxes on petroleum lands and leases established by the decree mentioned.

I have [etc.]

HENRY P. FLETCHER

[Enclosure—Translation]

Circular No. 14 of the Department of Hacienda, granting a term for the presentation of declarations and within which payment is to be made of taxes on petroleum lands and leases, by persons subject thereto¹

CIRCULAR NO. 14

In view of the issuance by the general stamp office of the form according to which taxpayers must make the declarations provided for in Articles 6 and 9 of the decree of February 19 last, which establishes a tax on oil-bearing lands and petroleum leases, this Department has seen fit to grant a term which will expire on May 15 next to the end that the taxpayers may present their declarations and make payment of the taxes provided for in the said decree and which correspond to the bimonthly term which will expire in the present month; with the understanding that if this be not done, the surcharge of 10 per cent for each month of delay will become effective as well as the fines referred to in Article 19 of the aforesaid decree.

Which is communicated to you for your information and guidance.

Constitution and Reforms. Mexico, April 23, 1918.

Undersecretary, in Charge of the Department,

R. NIETO [RUBRIC]

File No. 812.512/1959

The Ambassador in Mexico (Fletcher) to the Secretary of State

No. 993

MEXICO, May 6, 1918.

SIR: Referring to the Embassy's telegram No. 1022 of May 2, 1 p. m.² reporting that, with reference to Articles 3 and 5 of the petroleum law accompanying my despatch No. 815 of March 1, the Department of Hacienda had issued a circular prescribing that the royalty tax for March and April this year shall be paid in cash, I have the honor to enclose herewith the text and translation of the circular in reference.

I have [etc.]

HENRY P. FLETCHER

[Enclosure—Translation]

Circular No. 15 of the Department of Hacienda, relative to the payment of taxes on petroleum lands and leases³

CIRCULAR NO. 15

In conformity with Article 5 of the tax law on petroleum lands and petroleum leases, dated February 19 this year, this Department has seen fit to

¹ *Diario Oficial*, April 26, 1918.

² Not printed.

³ *Diario Oficial*, May 1, 1918.

rule that the tax on royalties to which Article 3 of the said law refers, corresponding to the present bimonthly period of March and April, shall be paid in cash by those subject to the said tax, at the corresponding tax office, it being understood that if the royalty is payable in kind, it shall be valued for the purpose of making payment in cash, at the rate of \$13.50 (pesos) per ton, in accordance with the tariff contained in Circular 10 of March 21 last, issued by this Department. For the purpose of computing the reduction for pipe-line transportation, a rate of 20¢ per ton-kilometer shall be used, this being the rate fixed by the Department of Industry, Commerce and Labor.

The foregoing is communicated to you for your information and appropriate action.

Constitution and Reforms. Mexico, April 25, 1918.

Undersecretary, in Charge of the Department,

R. NIETO [RUBRIC]

File No. 812.512/1976

The Ambassador in Mexico (Fletcher) to the Secretary of State

No. 1024

MEXICO, May 14, 1918.

SIR: I have the honor to enclose herewith the text and translation of Circular No. 18 of May 8, 1918, issued by the Department of Hacienda and Public Credit, correcting Circular No. 15 relative to the payment in cash of the royalty tax prescribed in the petroleum law of February 19 last. A copy of Circular No. 15 was forwarded to the Department with my despatch No. 993 of May 6, 1918.

I have [etc.]

HENRY P. FLETCHER

[Enclosure—Translation]

Circular No. 18 of the Department of Hacienda, correcting Circular No. 15 of April 25, 1918¹

CIRCULAR NO. 18

It having been stated in Circular No. 15 of April 25 last, covering payment in cash of the tax on royalties stipulated in petroleum contracts, that for the purpose of deducting the cost of pipe-line transportation, a rate of 20 centavos per ton-kilometer would be taken, this being the rate fixed by the Department of Industry, Commerce, and Labor, whereas the rate should be 2 centavos per ton-kilometer, the amount really stipulated by the said Department; the taxpayers are, therefore, informed, as is also the tax office, that the rate is 2 centavos per ton-kilometer, and that their declarations should be computed on this basis.

The foregoing is communicated to you for your information and guidance.

Constitution and Reforms. Mexico, May 8, 1918.

Undersecretary, in Charge of the Department,

R. NIETO [RUBRIC]

File No. 812.512/1957

The Ambassador in Mexico (Fletcher) to the Secretary of State

[Telegram]

MEXICO, May 14, 1918, 2 p. m.

1070. My mail despatch 890, April 3 last. Minister for Foreign Affairs informs me that President has referred certain features of petroleum law to a commission composed of himself, Pani, Berlanga,

¹ *Diario Oficial*, May 10, 1918.

and Nieto for study and revision. It is evident that our protest has had a deterrent effect.

FLETCHER

File No. 812.512/1977

The Ambassador in Mexico (Fletcher) to the Secretary of State

No. 1044

MEXICO, May 15, 1918.

SIR: Confirming my telegram of yesterday's date on the subject of the petroleum decree of February last, I have the honor to report that in my last interview with the Minister for Foreign Affairs he informed me that the said decree had been the subject of much discussion in recent meetings of the Cabinet; that he had opposed it from the beginning and that the President had a few days ago referred it to a committee composed of himself, Mr. Pani, Secretary of Commerce and Labor, Mr. Berlanga, Secretary of Government, and Mr. Nieto, Subsecretary of Finance, for further study, and that he hoped some reforms and amendments would result. I referred to my note of protest against the decree and asked him how it was regarded, etc. He said he had sent it on to Mr. Pani as the father of the law and was awaiting his observations upon it before replying. He gave me the impression that personally he was still opposed to the decree and hoped to see the petroleum question settled along the lines of his own proposed law—the so-called Aguilar project—which he considered more equitable and fair to all concerned.

Messrs. Garfield and Rhoades called on me to-day and informed me that they have been appointed to represent all the American oil companies, who intended to act as a unit, and that the Department is familiar with their plans. I mentioned the matter to President Carranza to-day and arranged that he will give them an audience immediately.

I believe this matter will eventually be adjusted to the satisfaction of all concerned but it will take time and patience.

I have [etc.]

HENRY P. FLETCHER

File No. 812.512/1963

The Ambassador in Mexico (Fletcher) to the Secretary of State

[Telegram]

MEXICO, May 17, 1918, noon.

1078. My 1070, May 14, 2 p. m. Minister for Foreign Affairs informs me that time for filing manifests called for by Article 14 of the petroleum decree of February 14 [19] last has been entered [extended?] until July 31 next and that Cabinet has decided to give the representatives of petroleum interests an opportunity to be heard, and I have so advised Garfield.

FLETCHER

File No. 812.512/1957

The Secretary of State to the Ambassador in Mexico (Fletcher)

[Telegram]

WASHINGTON, May 18, 1918, 8 p. m.

1085. Your 1070, May 14, 2 p. m. Department is pleased to note deterrent effect of its protest and trusts you will be able to impress upon President Carranza the necessity and advisability of radically modifying decree.

LANSING

File No. 812.512/1983

The Ambassador in Mexico (Fletcher) to the Secretary of State

No. 1051

MEXICO, May 22, 1918.

SIR: Referring to my telegram No. 1078 of May 17, 12 noon, reporting an extension until July 31 of the time within which statements required by Article 14 of the petroleum decree of February 19 last, may be filed, I have the honor to enclose, herewith, the text and translation of presidential decree making the extension of time referred to and prescribing the information to be given in the statements mentioned.

I have [etc.]

HENRY P. FLETCHER

[Enclosure—Translation]

Decree granting an extension of time within which statements required by Article 14 of the petroleum decree of February 19 may be filed¹

I. Venustiano Carranza, Constitutional President of the United Mexican States, to the people thereof, make known:

That in the exercise of the extraordinary powers in the Department of the Treasury, vested in me, and whereas,

The time limit fixed by Article 14 of the tax law on petroleum lands and contracts is about to expire, within which owners and last concessionaires should present to the Department of Industry, Commerce, and Labor their manifestations (statements) covering respectively their leased and nonleased lands, and as it has not been possible as yet to present them all, it is deemed proper that all persons interested be given an opportunity to take advantage of the privilege prescribed in the said article by extending prudently the provisions thereof; and whereas,

In case only the last concessionaires can submit their manifestations with respect to those lands which are under lease—in the manner prescribed by Article 14—and the said concessionaires do not submit their manifestations within the time indicated, the former concessionaires and the owners of petroleum lands would suffer;

I, therefore, have seen fit to issue the following:

DECREE

ARTICLE 1. The time fixed in Article 14 of the tax law for the presentation of manifestations and the enjoyment of the privileges established by the said article, is extended to July 31 this year for:

- I. The owners of petroleum lands who may not have in any way rented or leased them to others for the exploitation of the hydrocarbon solids, liquids or gases, and who desire to exploit them for their own account and preserve preferred rights for their exploitation.
- II. The last concessionaires to the right of exploitation, through the contracts referred to in Article 1 of the said law, who also desire to preserve preferred rights for the exploitation of the lands leased.

¹ *El Universal*, May 22, 1918.

ARTICLE 2. Should the last concessionaires fail to present their manifestations within the period specified, they shall be considered as having lost their rights or preference, and the former or intermediary concessionaires as well as the owners of the property leased, may present manifestations within the two months following the date set, in order that the Department of Industry, Commerce, and Labor may grant the privilege, from among all those who present manifestations, to the last concessionaire to the right of exploitation of the subsoil.

ARTICLE 3. The manifestations of owners shall be submitted together with titles to the property, or in lieu thereof, true copies of the same. The said manifestations shall contain the following data:

- I. Name, age, nationality, and residence of declarant.
- II. Location of the land manifested, stating the name, number of the lot, name of the *hacienda*, municipality, county or district, and state.
- III. Area of the land.
- IV. Date of purchase
- V. Seller.
- VI. Purchase price.
- VII. A plan, or failing this, a complete description of the land, stating the boundaries and the names of surrounding lands and of the owners thereof, with all other descriptive data.

ARTICLE 4. The manifestations submitted by concessionaires shall be accompanied by the concessions in their favor or by true copies thereof. The said manifestations shall contain the following data:

- I. Name, age, nationality, and residence of declarant.
- II. Location of the land manifested, stating the name, number of the lot, *hacienda*, municipality, county or district, and State.
- III. Area of the land.
- IV. Name of the owner.
- V. Date leased by owner.
- VI. Date of declarant's lease.
- VII. Rental paid by declarant.
- VIII. Percentage or royalty paid by declarant.
- IX. Duration of contract.
- X. Plan, or failing this, a complete description of the land, stating the boundaries and the names of surrounding lands and of the owners thereof, with all other descriptive data.

ARTICLE 5. The manifestations of owners or concessionaires which do not conform to the provisions of Articles 3 and 4 respectively, shall be thrown out as worthless.

ARTICLE 6. The tax law of February 19, this year, shall be considered null in so far as it conflicts with this law.

I, therefore, order that this be printed, etc.

Given at the Palace of the Executive Power of the Union, in Mexico, on the eighteenth day of May, nineteen hundred and eighteen.

V. CARRANZA [RUBRIC]

File No. 812.512/1987

The Ambassador in Mexico (Fletcher) to the Secretary of State
No. 1078

MEXICO, May 29, 1918.

SIR: Referring to my despatch No. 1044 of May 15, 1918, on the subject of the petroleum law of February 19 last, I have the honor to report that, at my request, Messrs. Garfield and Rhoades¹ were received by President Carranza on the 22d and had what they reported as a very satisfactory talk with him on the subject of the petroleum decree. He referred them to Messrs. Pani and Nieto,

¹ Attorneys for the owners of oil properties in Mexico.

with whom they have already had a conference which was also highly satisfactory.

Mr. Garfield reports that he is very much encouraged by the trend of affairs and believes that, as a consequence of the united front presented by the oil industry and of our protest of April 2 last, the Mexican Government will eventually delete the objectionable features from the said decree.

President Carranza intimated to them that they should discuss the law as a tax measure rather than as an application of Article 27 of the Constitution.

I will keep the Department informed of the progress of Mr. Garfield's negotiations.

I have [etc.]

HENRY P. FLETCHER

File No. 812.512/1991

The Ambassador in Mexico (Fletcher) to the Secretary of State

No. 1092

MEXICO, June 5, 1918.

SIR: In continuation of my despatch No. 1078 of May 29 last, I have the honor to report that Messrs. Garfield and Rhoades expect to leave Mexico for New York and Washington to-morrow morning. Mr. Garfield reports that the negotiations with reference to the petroleum decree of February 19 are proceeding satisfactorily, but that certain data with reference to production, etc., and which can only be procured in New York and Tampico, are necessary before further progress can be made. He states that he will call at the Department and report personally as to the conferences which he has had here.

Messrs. Garfield and Rhoades seem very optimistic, but from a conversation which I had with Mr. Nieto yesterday, I am inclined to believe that the Mexican Government will insist upon its interpretation of Article 27, and upon its ownership of subsoil petroleum deposits thereunder.

I have [etc.]

HENRY P. FLETCHER

File No. 812.512/2004

The Ambassador in Mexico (Fletcher) to the Secretary of State

No. 1121

MEXICO, June 12, 1918.

SIR: In continuation of my despatch No. 1092, of June 5, 1918, on the subject of the negotiations of Messrs. Garfield and Rhoades, representing the foreign oil interests in Mexico, with Messrs. Pani and Nieto, members of the Cabinet, on the subject of the petroleum decree of February 19 last, I have the honor to enclose, first, copy of the memorandum of Messrs. Garfield and Rhoades, dated May 28, 1918; second, translation of the reply of Mr. Pani; and, third, the rejoinder of Messrs. Garfield and Rhoades, dated June 3.

I invite the particular attention of the Solicitor's Office to the reply of Mr. Pani (enclosure No. 2), as it undoubtedly embodies the arguments which the Mexican Government will advance to meet our protest of April 2, 1918 (see my despatch No. 890, of April 3, 1918).

I have [etc.]

HENRY P. FLETCHER

[Enclosure 1]

Messrs. Garfield and Rhoades to the Mexican Secretary of Industry, Commerce and Labor (Pani) and the Undersecretary of the Treasury (Nieto)

MEXICO, May 28, 1918.

GENTLEMEN: James R. Garfield and Nelson O. Rhoades, in representation of the various enterprises embracing the oil industry, credentials for which representation have been presented and accepted by your Government, appear before you and respectfully submit for your consideration the following memorandum in relation to the decree of February 19, 1918, applying to the oil industry.

The producers and distributors of oil, during the years preceding the said decree and in conformity with the then existing laws, either purchased or leased lands which were supposed to contain oil or were so located as to give reason for exploring for oil. Realizing the uncertainty and hazard of such explorations each company or individual, with sound business judgment, legally acquired holdings large enough to cover the expenditure of capital for wells both productive and unproductive and to assure, if possible, future developments.

Based upon the integrity of their contracts of sale or lease the companies and individuals have invested many millions of dollars.

At the time of such investments the investors realized that as production was developed the industry would and should be subjected to taxation and they relied upon the wisdom and faith of the Federal and State authorities to so adjust taxes that the industry would pay only its fair share of the necessary tax burden and at the same time be able to meet competitive conditions in the world markets, and return the investment with a fair profit thereon.

In this connection it is to be remembered that in considering the oil industry we are dealing with a product which is destroyed when developed and cannot be replaced; hence the entire investment must be returned with a profit. To the capital invested for the purpose of production and refining must be added the large amount necessary for transportation to either the home consumer or foreign trade.

With these conditions in mind the producers approach the interpretation of the decree of February 19. They find the following provisions which, if enforced, would not only destroy invested capital, but would prevent the wise and profitable continuance, and increase of production:

I

The decree imposes taxes too great for the industry to bear and out of proportion to taxes imposed on other industries. The aggregate of annual taxes proposed added to those now imposed would result in practical confiscation. The decree ignores entirely the investment of capital for non-productive wells, productive wells, transportation and equipment, and the greatly increased cost of operation and construction.

In the case of a producer, who is a landowner, the decree imposes a flat tax of \$5 per hectare, which is ten times the tax imposed on similar lands under lease at \$5 per hectare and fails to take into consideration the capital invested in the original purchase of the land.

It is thus apparent that there would be created a serious discrimination against the landowner who produces in comparison with the producer who leases.

The problematical nature of oil development differentiates the industry from all others. It is of course impossible to judge the industry by a few large wells—the general average of known fields and their uncertainty of sustained flow must be considered.

II

The decree requires the producer to deduct the total of taxes imposed therein from the rental and royalty which the producer is obligated to pay the lessee under existing contracts of lease. Such deduction, amounting to a large percentage of the fixed rentals and 50 per cent of the royalties, would immediately subject the producer to action on the part of the lessee, either for cancellation of the lease or for large money damages because of failure to perform the conditions of the lease. This would mean endless litigation between lessors and lessees to the great injury of both.

III

The decree, by reason of the provisions for denunciation, in Article 14, and those for deduction of rental and royalty due the lessors heretofore mentioned, is retroactive in that it reads into the contracts of sale and lease conditions that were not in the minds of the contracting parties and were not provided for under the laws in force at the time those contracts were made.

This being true, the effect of the decree is confiscation of property without compensation. When the outstanding contracts of both sale and lease were made, the right of the owner of the surface to dispose of the oil if any existed, was admitted. There was no reservation on the part of the Government. The acts of both Federal and State Governments were in recognition of that right.

We present these three points as outlined in our conference of yesterday believing that they afford with the questions that logically arise under them, a basis for the consideration of the entire problem.

With assurances [etc.]

G [JAMES R. GARFIELD]
R [NELSON O. RHOADES]

[Enclosure 2—Translation]

The Mexican Secretary of Industry, Commerce and Labor (Pani) to Messrs. Garfield and Rhoades

MEXICO, May 30, 1918.

GENTLEMEN: In reply to the memorandum which you sent to us last Tuesday, we have the honor to transcribe below the result of a study in the premises made by the technical committee of the bureau of petroleum of the Department of Industry, Commerce, and Labor:

In the preamble of the memorandum mentioned you state that, in accordance with existing laws, operators acquired lands in ownership or by lease for the purpose of oil exploration; that they acquired extensive zones to guarantee their investment, and that they have invested several millions of dollars in various lines of the industry. That they understand the necessity and expediency of paying a just tax which will allow them to participate in the world's competition and at the same time derive a profit on the investment.

In view of the circumstances stated, you point out the following inexpediences in the law of February 19:

1. The tax is excessive and disproportionate as compared with taxes assessed on other industries.
2. The obligation imposed on the lessee to pay the lessor's taxes is inexpedient and will give rise to many litigations, prejudicial to both parties.
3. The law of February 19 is retroactive since it modifies the conditions of some leases made in accordance with the law.

From this last point you deduce that the effect of the decree mentioned will be the confiscation of property.

It is an aphorism of law that the accuser must prove his case. Based on this principle, it might be expected that a full, precise, and rational exposition would be submitted of the conditions under which the oil industry is carried on in Mexico and in other countries, demonstrating that the conditions imposed by the decree of February 19 absorb the legitimate profit which the capitalists interested in that industry should secure; but you limit yourselves to giving an exposition of the general conditions of the industry and of the defects which, in your opinion, are contained in the decree of February 19. Therefore, a defense of the decree is required, together with a study of its influence on the development of the industry. For the purpose, the memorandum submitted will be considered solely as a private opinion, which, while incorrect, is to be respected since it comes from those who are interested in the matter, and because the Government of the Republic has always shown that its intention is to encourage the proper development of natural resources and the investment of capital in all industries beneficial to the country, among which the oil industry should be included.

Industrial capital, that is, capital used principally for oil exploration and exploitation, deserves especial consideration, leaving for secondary consideration that which is used for the purpose of monopolizing oil lands, even though the latter should be parallel with the industrial investment. It is to the interest of the Nation to give every aid and guarantee possible to industrial capital, and to obstruct or prevent monopolies to the extent it can be done, for the reason

that the latter, in the final analysis, do no more than obstruct industrial development, and can reach such proportions as to endanger the very life of the oil industry. It is difficult to stipulate the amount of surface land necessary to guarantee the strength of an oil business, and to fix the maximum thereof. For this reason no Mexican law has adopted such a system. The desire, however, has been to create a system which will automatically stop monopoly by fixing a tax on petroleum claims such as will permit each operator to acquire the area necessary for exploitation purposes and leave free for the investment of other capital such area as would otherwise be held unused indefinitely for the sole purpose of avoiding competition.

The millions of dollars of industrial capital are not taxed by the law of February 19; therefore, if you represent only truly industrial companies, a careful study of the circumstances in which the operators are placed by reason of the said decree, will convince you of the injustice of your demand. These operators may be lessees of the lands exploited by them. In this case they are not affected by the new tax, since they will simply continue to pay the rental and royalty to which they are now subject if both are stipulated in the contract. Only in cases where one of these stipulations is lacking will they be affected. Should they own the land—an extreme case in which they are obliged to pay both the Federal rental and seigniory tax—they are in a better condition than are operators who are obliged to acquire the right of exploitation through contracts with surface owners or with intermediaries who devote themselves to that class of speculation.

The average royalty under contracts made with surface owners is 10 per cent of the production and in some cases it is equivalent to 25 per cent. An operator who owns the land pays to the Treasury 5 per cent only of said production, crediting himself, so to say, with the other 5 per cent in his capacity of owner, this being equivalent to the average seigniory tax which in future will be charged by the owners of leased lands.

The rental of five pesos per hectare, fixed by the decree of February 19, is lower than the rental paid on mining claims, which latter is progressive and rises from a minimum of six pesos yearly per hectare on small claims. The tax on petroleum claims is proportional and not progressive, the desire being to permit the operator to acquire a considerable area which will allow of a full and scientific exploitation of the subsoil. At the same time, attention should be called to the fact that the law of February 19 taxes only the exploited claims and that exploitation begins when a deposit is discovered. Therefore, the statement cannot be accepted that the rate of five pesos per hectare is equivalent to ten times the tax assessed owners of lands rented at the rate of five pesos per year per hectare; these latter pay on all their lots, while the owner pays only on the exploited claim. But even supposing that the new petroleum law should nullify all contracts, in accordance with the Constitution of 1917, thereby facilitating the assessment of a uniform tax of five pesos per hectare on all oil lands, this tax would be perfectly legal, since it is based on the principle of the Nation's direct dominion over all hydrocarbons.

The tax law of February 19 simply facilitates for owners and lessees of oil lands the procedure to be followed for revalidating rights acquired by them under a law which has been annulled.

For your information, we beg to give below the principles of the mining law of Mexico and its transformations to the time of Article 27 of the Constitution at present in effect:

The mining law of Mexico had its origin in Spanish legislation of the time of the viceroyalty, and underwent various modifications until it took the form of a body of laws and principles condensed into the mining ordinances issued at Aranjuez and which have been in effect in New Spain since 1784. In Article 1 of Title V it is stated that the owner of the mines is the King of Spain, this being confirmed in Article 2 of the same title, which says:

Without separating them from my Royal Patrimony, I grant them to my vassals to have and to hold, in such manner that they can sell, transfer, rent, give, or leave them under testament as an inheritance, or in any other manner transmit the rights to them which they possess to persons who can acquire the same, under the same terms as those under which they are held.

Article 3 of the same title establishes the indispensable conditions for retaining the mines in usufruct, which consist in the payment of a tax to the

Royal Treasury and in the obligation to work the mines in accordance with the provisions of the same ordinances.

In order to ascertain what the royal patrimony before mentioned consists of, Article 22 of Title VI of the said ordinances may be read, as in it are specified the substances covered. It reads:

I also grant that there may be discovered, solicited, registered, and denounced in the manner stated, not only mines of gold and silver, but also those of precious stones, copper, lead, tin, quicksilver, zinc, bismuth, salt rock and other fossils, be they perfect metals or semimetals, bitumen, or earth juice, granting for the purpose thereof, their refining and working, when required, the provisions of which correspond

The royal patrimony of the Spanish Crown became the national patrimony of the United Mexican States, historically, through the war of independence which began in 1810 and ended in 1821, and legally, through the treaty of peace and friendship entered into between Mexico and Spain and signed at Madrid on December 28, 1836. Article 1 thereof concludes as follows:

. . . and his Majesty renounces for himself, his heirs and successors, all pretension at Government, ownership and territorial right with respect to the said States and Countries.

In the same article the Mexican Republic is recognized as a free, sovereign, and independent nation, and the limits of its territory are fixed, in such manner that the Mexican nation substituted the Spanish Crown in its sovereignty and patrimony, as well as in all rights inherent thereto, which it preserves at the present time in so far as concerns the national territory.

The mining ordinances continued to be in effect in independent Mexico, there being only a substitution of sovereigns and the consequent substitution of rights mentioned. The Constitution of Mexico up to the year 1916 did not mention the question of mining rights, so that on this point they left in existence the ancient rights, as is confirmed by the official statement of the Minister of Justice, Encouragement and Public Instruction, transcribed below:

The President, having acquainted himself with your communication of the 28th ultimo, with which you attach one from citizen Francisco Ferrel on the subject of a coal mine denounced by him, has seen fit to declare that fossil coal deposits bear the same status as mines, over which the nation exercises (apparent omission) the *dominium utile* to citizens, the same being given in ownership in accordance with the provisions of the mining ordinances; that, therefore, coal deposits are subject to the same procedure as is established for the denunciation, adjudication, and possession of mines. Which, by superior order, I communicate to you for your information and appropriate action. God and Liberty, San Luis Potosí, August 22, 1863. RAMÓN I. ALCÁRAZ.

At the same time that the legal Government issued this statement, which proves that the mining ordinances of 1783 were still in existence and that the effect thereof was the same as when issued, the same opinion prevailed, with greater reason, in the Government of the Archduke Maximilian, so-called Emperor of Mexico.

On July 6, 1865, the latter issued a decree which opens as follows:

We, Maximilian, Emperor of Mexico, having considered that Article 22 of Title VI of the mining ordinances does not provide regulations governing the production of such substances as are not precious metals, and that such regulations should be established for the continued development of these important branches, and having heard the counsels of our Ministers of State, do decree:

GENERAL REGULATIONS

ARTICLE 1. No one may exploit mines of salt, spring or well and lakes of salt water, coal, asphalt, petroleum, alum, kaolin, and precious stones, without first obtaining express concession from the competent authorities, approved by the Ministry of Fomento. . . .

On December 14, 1883, Paragraph X of Article 72 of the Constitution of 1857 was amended as follows:

X. To promulgate laws obligatory throughout the Republic, relative to mining and commerce, the latter embracing banking institutions.

Based on this amendment, the mining code was promulgated in 1884, in which dominion with respect to coal and petroleum was established in favor of the surface owners, but the authors of the code had no authority for doing this, since such an amendment would require a prior constitutional amendment abrogating the principle that the direct ownership of the Nation may not be alienated nor laid aside, or, in the terminology of the ordinances, "Without separating them from my royal patrimony, I grant them to my vassals to have and to hold. . . ."

The Constitution of 1917 proclaims the existence of this general principle, thereby annulling the arbitrary exception which refers to coal and petroleum.

To realize the effects of the constitutional principle proclaimed in Article 27, it is necessary to analyze the right granted to the surface owners in 1884; this right is not in any way the right of ownership of the deposits contained in the subsoil, nor can it be, since this right can be obtained only by actual possession of the petroleum, and this would necessitate the discovery and development of the mineral.

In 1905, Lic. Isidro Rojas presented to the Academy of Jurisprudence a brief on this subject, and in it he stated, very clearly, the reasons which exist for not considering the concession of 1884 as a right of ownership, but only as a faculty of appropriation granted to the surface owner to the exclusion of others. His words are given below:

It is unnecessary to repeat that the owner of the surface who has not as yet discovered the deposits or springs, and cannot dispose of the same nor hold them in possession, may not transfer them, since they have no place in commerce as yet; in a word, he has not any right of ownership to them in the legal sense of the word, since they are but hypothetical in character. There should be no confusion as regards faculties and rights, and much less as regards the faculty of appropriation with the rights of ownership, that is, with ownership itself. I have the faculty of appropriating oxygenated air to myself, but this does not mean to say that all oxygenated air is my property in all its distinctive forms.

In the United States it is considered that the acquisition of the right of ownership over petroleum and natural gas is a natural result of its development, the owner being permitted to take from a well all that he desires, even though he should exhaust a deposit common to various operators, and he is allowed even to use an explosive to increase superficially the production of his well, as may be seen from Chapters 40, 41, and 42 of Archer's *Law and Practice in Oil and Gas Cases*, and in the *Law of Oil and Natural Gas* by Wilkinson and Richardson, the relevant part of which is enclosed (Exhibit No. 1).¹

It being, therefore, not a right of ownership, but only a faculty for the carrying on of exploration and exploitation work, which was granted in 1884, a faculty granted gratuitously, even though the concession were legal, the same power which made it effective can remove it, and this can be said with greater force with respect to a Constitutional Congress which possesses all inherent sovereign rights, for as could be said with Merlin: *Les droits que la société créée, elle peut aussi l'abolir.*² Therefore, the revindication of a right which the Nation has always held over petroleum and hard coal cannot be considered as confiscation, neither is it retroactive, since it does not demand of the surface owners the return of utilities obtained through the operation of the Code of 1884 and subsequent regulations.

With regard to the inexpediency of having the operator deduct the federal tax and royalty in making his payments, this cannot result in litigations for the reason that he is only complying with the law, since Mexican legislation authorizes such a procedure as may be seen from Article 2957 of the civil code, which says:

When the law assesses taxes on the lessor demanding payment by the lessee, the latter shall make the payment, deducting the amount thereof from the rental.

¹ Not printed.

² The laws which society creates it can also repeal.

The rental of five pesos per hectare was based on data taken from contracts registered in the Cantón of Tuxpan, during the years 1913, 1914, 1915, and 1916, according to which the rental averages 5 pesos 60 centavos (Exhibit No. 2).¹ This basis was taken for the reason that such data is absolutely worthy of confidence, having been taken directly from the property registry by Mr. Villalba, the Department's agent. The Federal rental is lower than the said average rental, and furthermore, other onerous conditions imposed by surface owners are not exacted. Therefore, the operator, assessed with the Federal rental and royalty taxes, is in a position to develop his business properly, since under less advantageous conditions the oil industry in Mexico has had such a notable development, as may be seen from the attached production chart (Exhibit No. 3),¹ covering the years 1901 to 1917. From the chart of existing wells in the Republic on March 31, 1918, it will also be seen that the industry has not been wanting in facilities for the development thereof in the interior of the country, but has suffered only from the lack of means of transportation for the export of the oil, since the potential production of the wells is over one and a half millions of barrels daily and exportations during 1917 were only fifty-five millions; that is, one tenth of the potential production.

The petroleum law, when issued, should annul those contracts which are contrary to constitutional precepts; in such case, the operator will be subject only to conditions more advantageous than those which have permitted the industry to flourish.

We are [etc.]

ALBERTO J. PANI

[Enclosure 3]

Messrs. Garfield and Rhoades to the Mexican Secretary of Industry, Commerce and Labor (Pani) and the Undersecretary of the Treasury (Nieto)

MEXICO, June 3, 1918.

GENTLEMEN: We have examined with interest your memorandum of May 30, 1918, which we discussed in full with Mr. Pani on May 31, and beg to submit the following observations thereon:

I

The question of the total amount of tax which the industry should bear is admittedly difficult. We are obtaining from all the companies we represent exact information from which we will be able to present for your consideration the facts upon which we base our conclusion that the taxes proposed would be confiscatory.

II

As to the provision requiring the lessee to deduct taxes from rent and royalty, despite your interpretation of Article 2957 of the civil code, we fear that serious litigation and damage would inevitably result because of the high rate of the tax and the arbitrary valuation of the product, far in excess of its market value, as fixed by Circular No. 15, issued by the Department of Industry and Commerce, under date of April 28, 1918.

Upon comparison of the statistics contained in the exhibits accompanying your memorandum with material thus far obtained from producers and published reports, regarding the relative effect of the decree of February 19, 1918, upon landowners and lessees engaged in production, we find such differences as to make impossible any useful statement of conclusions until we reconcile the statistics and establish a common ground of accepted facts.

III

Pending our further study of facts we beg to submit for your consideration some general suggestions in reference to your discussion of the character of the right of dominion over or ownership of oil lands existing prior to the Constitution of 1917.

Oil, having become one of the necessities of modern living conditions, is a resource in which the public is vitally interested. Whether owned by the public or by individuals it is of value only when produced and used; and, regardless of ownership, production is controlled by the following principles and methods:

¹ Not printed.

1. It should be produced and sold without unnecessary waste and at fair prices, for the benefit and use of the people of the Nation wherein it is found and for the development of industry and transportation.

2. The surplus, above the amount required under No. 1, should be produced for export and the development of foreign trade.

3. It should bear its fair share of the tax burden for public needs, Federal, state and local.

4. Monopolistic control, whereby principles Nos. 1, 2 and 3 are seriously interfered with, should be prevented.

5. Exploration of probable fields. Because of the uncertainty and cost, exploration can only be successfully made by individuals or corporations of large capital.

6. Development of known fields. Because of the cost of refineries, pipe lines, tankage, and transportation such development likewise requires a very large investment of capital.

7. As oil is a non-replaceable resource, the return of the entire investment, with a reasonable profit, must be possible from the sale of the product before its exhaustion, otherwise capital would not invest.

8. The owner of probable oil land has the choice of three ways to act if exploration of the land is to be made.

(a) He may invest his own capital and assume the risk of loss.

(b) He may sell for a fixed price, letting the purchaser take the entire risk.

(c) He may lease for a minimum land rental and a royalty on production, thus participating in the risk.

In each of the above cases (b) and (c), the price paid or the rental and royalty agreed upon will be determined by the probabilities of success and the experience of operation in other fields.

Whether the land is owned by the Government or by private individuals the same practical business rules govern its development.

Instead of getting into conflict and confusion over the question of the ownership of subsoil rights is it not wiser to devote attention to legislation under which the principles and methods above stated can most readily be applied?

We have studied with care not only the arguments presented in your memorandum but as well many of the discussions of this subject which have been published.

We find that many of the ablest lawyers and economists of Mexico have widely differed in their opinions upon the question, whether the Nation reserved to itself dominion over the deposits of oil, or whether the private owner of the surface is the owner.

It is an axiom of constitutional interpretation that persons are justified in acting and relying upon a construction adopted either directly by the Nation through its duly constituted authorities, or by the tacitly accepted acquiescence in a particular course of action on the part of the Government and its citizens during a long period of time. Only by such construction can stability of government and private rights be attained.

As you have pointed out, the Nation, speaking through its duly constituted legislative and executive authorities, in 1884, directly construed the Constitution as recognizing, in the owner of the surface, the right of private property in or dominion over the oil—the subsoil.

In accordance with that law owners of the surface have sold and leased their lands, and the purchasers and lessees have fulfilled their contract obligations with full faith that the Government which had fostered the industry would maintain the guarantees of property rights which had been the guide and inspiration of the investors' efforts.

The necessity of dealing in the utmost good faith applies to nations as well as to individuals if society is to make steady and stable progress. Without doubt economic and industrial changes require changes in constitutions and laws, but when such changes are made, they should apply to the future, recognizing that it is not wise to attempt to undo that which has been honestly and legally done even though we question its wisdom.

Let us apply these general principles to the question under discussion.

There is a wide divergence of opinion between able and honest men upon the question of ownership of oil in the subsoil.

The Nation, prior to 1917, for a period of 33 years, recognized the right of private ownership. Relying upon such recognition citizens of this and other

countries have purchased and leased lands for the purpose of developing oil and have invested millions in their enterprises.

Quite regardless of the theoretical or philosophical discussion of dominion over oil, the fact is that if the Nation now repudiates such private ownership, will it not follow that the credit and faith of the Nation will be shattered both in the minds of its citizens and of the nations of the world?

Nations like individuals are judged by their acts rather than by their intention or theories.

Is it not wise, even if there were no legal or ethical question involved, to avoid the difficulties and controversies that inevitably arise in attempting to apply to existing property rights a radical change of interpretation of laws affecting such property rights?

Again is it wise, even if your contention regarding the law of 1884 be accepted, to now deny rights which citizens of this and other countries not only believed they acquired under that law, but as well have exercised without objection?

As nations of the world must live together, each nation must measure its acts by the effect produced upon the citizens of other nations. If it were conceivable that a nation might live entirely within itself, only its citizens would be injured or benefited by its acts; but as no nation can so live, its acts, affecting its own citizens, are immediately reflected upon citizens of other nations.

Would not such a course of procedure, in dealing with foreigners who have participated in your national industrial development, create a hazard and uncertainty which would hereafter frighten away foreign investors because of the fear that rights obtained under the new laws might not be respected by succeeding governments?

Mexico, as other nations, has offered opportunities and welcomed foreign capital to invest in and develop its resources. Without doubt there have been instances of abuse of the hospitality thus afforded but the great majority of foreign investors, while of course seeking their own profit, have desired and worked for the true development and progress of Mexico. We must recognize the mutuality of the relations that necessarily exist between the Nation and foreign investors. Neither should seek unfair advantage.

We are in accord with your suggestions regarding monopoly—no industry should be a monopoly, in the hands of either citizens or foreigners, which can be used to the injury or disadvantage of the public.

The Government, acting for all its people, should control and regulate industry and never allow any act of men by monopoly or otherwise to be stronger than the Government. On the other hand, the Government must be as strictly just in its treatment of business enterprises as it requires those enterprises to be just in their actions toward the Government and the public.

By recognizing the right of a private owner, who has acquired the surface prior to the Constitution of 1917, to sell or lease underlying oil, the Government exercises its dominion over oil by taxation, by laws against monopolistic control, and by police regulation laws.

At the same time the Government may exercise dominion over oil underlying national lands by reserving the oil to itself in any future sale of the surface.

It would be found that the same principles governing exploration and production would necessarily apply to lands owned by the Government and those owned by individuals. The taxes upon production would be the same, the laws governing monopoly, etc., would be the same.

The exploring corporation would choose the location most favorable to success. If it were national land the Nation would receive the royalty agreed upon—exactly as would the private owner.

Exploration and development would follow only when the royalty and other conditions were sufficiently reasonable as to attract capital.

Incidentally the system of taxation introduced should respond to the demands of export as Mexico must look to the world's market for her greatest consumption.

Mexico does not at present consume at home to exceed 20,000 barrels of oil daily, or 7,000,000 barrels per annum. The United States, in its highly developed state, industrially, consumes 335,000,000 barrels annually. But Mexico has the astonishing potential production to-day, with the industry yet in its infancy, of over 400,000,000 barrels annually.

This situation indicates the foreign field as Mexico's market. The total of 55,000,000 barrels marketed in 1917, against the potential production of 400,000,000, tells the story of Mexico's weakness in the oil industry.

Shipping facilities are the determining factors. At present there are 48 tank steamers and barges in service, with a total carrying capacity of 175,000 tons. In these times capital is timid; the amount required to increase this export possibility through provision of tank steamers is enormous—and the elements and materials required are very difficult to obtain. Capital for this purpose can only be had if the industry is supported by such equitable laws as will justify confidence against confiscation and guaranties of future stability. Given such guaranties tank steamers could be completed and brought to this service within 18 months, increasing the carrying capacity to 700,000 tons, more than three and one half times the present capacity.

If Mexico fails to provide these guaranties, all transportation facilities must, of necessity, be turned to other fields where conditions conducive to support of capital and development of industry prevail.

In view of the observations contained in your memorandum we beg to ask your opinion regarding the following points.

1. Do you consider contracts of petroleum leases of subsoil rights as "contracts of lease" under Article 2957 of the civil code to which you refer?

2. Would the Government defend for the operator suits at law which may arise from the efforts of lessors to enforce specified performance of contracts as to payment to them of the full amount of rental and royalty provided?

3. Do you interpret the law to mean that, should lessors refuse to allow payment of taxes in the form and manner established by such law, the Government will declare such contracts forfeited and permit the lessee to denounce the land covered by such contract, dealing directly with the Government and at the prices specified in the contract?

4. Section 14, decree of February 19, provides that those manifestations not containing justifiable data shall be rejected by the Department of Commerce and Industry. Will your search reach to the inherent legality of titles to the ownership of properties manifested? Is it the purpose of the law to provide a method of determining the legality of titles?

We very greatly appreciate your courtesy in undertaking this discussion and the spirit in which you have approached the problems. We are confident that when we obtain the detailed facts we are compiling it will be possible to eliminate much, we hope all, of the confusion that prevents us at present from agreeing upon conclusions. The facts we present will be of course subject to such proof as will convince you of their integrity.

Assuring you [etc.]

J[AMES] R. G[ARFIELD]
N[ELSON] R[HODGES]

File No. 812.512/1993

The Ambassador in Mexico (Fletcher) to the Secretary of State

[Telegram]

MEXICO, June 13, 1918, 10 a. m.

1170. The Mexican Government has ordered publication full text of note of April 2, protesting against petroleum decree and all papers carry it to-day with display headlines. *Pueblo*, official mouthpiece, heads it "President Wilson threatens Mexico"; *Democrata*'s head in red letters is "The Government of the United States threatens to intervene in Mexico if its pretensions are not satisfied."

The publication of our protest at this time by the Government looks like an attempt to offset and destroy effect of the President's recent speech,¹ and an endeavor to tie our hands in regard to petroleum decree.

FLETCHER

¹Ante, p. 577.

File No. 812.512/2013

The Ambassador in Mexico (Fletcher) to the Secretary of State

No. 1136

MEXICO, June 19, 1918.

SIR: In continuation of my despatch No. 1121 of June 12 last, on the subject of the petroleum decree of February 19 last, I have the honor to enclose copy and translation of the memorial of the Mexican petroleum landowners addressed to President Carranza on this subject under date of June 11 last.

The memorial is respectfully and temperately expressed and sets forth the objections of the Mexican landowners to the said decree. I would invite the Department's especial attention to the arguments advanced with reference to the retroactive and other unconstitutional features of the decree.

I have [etc.]

HENRY P. FLETCHER

[Enclosure—Translation]

Memorial presented to the President of the Republic by the owners of petroleum lands¹

MEXICO, June 11, 1918.

CITIZEN PRESIDENT OF THE REPUBLIC: The undersigned, owners of petroleum lands, with office for the hearing and receiving of communications on Avenida Isabel la Católica No. 24, second floor, room 12, this city, respectfully state to you the following:

The decree of February 19, 1918, subsequently modified only with regard to the time allowed for persons interested to submit their manifestations to which the decree refers, and as to preferences in connection with the denunciation of those lands which under the said decree shall be considered vacant, affects our property and contract rights so greatly, violating at the same time in so evident a manner the guarantees given to us in Article 14 of the Constitution, that we are forced, much to our regret, to place before you this respectful protest.

It is based on reasons so weighty and just that we do not hesitate to believe that it will be well received by you, for the reason that, as you are inspired by a high spirit of justice and are animated by the most profound desire for the national welfare, it is certain that, once the matter has been brought before you in the proper light, you will cause to be put into effect immediately such steps as may be necessary.

Among these is one which is in itself imperative: The cancellation of the decree mentioned, together with that of the subsequent one to which reference is made, with a view to having things return to their former status, and thereby avoiding the serious damage to our rights and guarantees which those decrees would cause should they continue in effect and really be put into operation.

As they were issued by reason of the extraordinary powers which you possess in Treasury matters, they can, under the same powers, be canceled.

The undersigned believe that by taking such action the Supreme Government will positively benefit thereby, since the time is not opportune for the enactment of legislation on the subject, on account of the lack of a full and well-established knowledge of the rights which should be respected and the true necessities which must be fulfilled, in order that the legislation enacted may be in conformity with the facts, and so that the three interests involved may be harmonized, that is, the landowners's, those of exploring and exploiting persons or companies, and those of the Nation, which form a part of the rental system of the country.

In the nature of a general remark, we beg, Mr. President, to invite your kind attention to the following point:

The decree of February 19, as well as its subsequent amendment, were promulgated by the Executive of the Union, through the Department of the Treas-

¹ *A B C*, Mexico City, June 19, 1918.

ury and Public Credit, with the undoubted purpose of enacting legislation on Treasury matters. However, it contains a provision, in Article 14, which refers to matters pertaining exclusively to the Department of Industry and Commerce, and therefore not within the jurisdiction of the Department of the Treasury, in matters relative to which you were vested with extraordinary powers. In effect, Article 14 of the said decree covers a matter entirely foreign to the administrative duties of the Department of the Treasury and Public Credit, and entails the establishment of regulations covering a constitutional law which pertains to the Legislative Chambers of the Union, as called for by the Constitution.

Speaking specifically, the decree affects our rights, property as well as contract, in two ways:

1. As regards the payment of rentals stipulated and the royalty percentage granted us, under the contracts;
2. As regards the right of ownership itself, within the terms of Article 14 of the decree.

As regards rentals, provision is made for setting aside for the Government 10 per cent of the first 5 pesos per hectare, 20 per cent of the second 5 pesos, and 50 per cent of the excess when rentals exceed 10 pesos per hectare.

In the taxes is included 50 per cent of the royalties stipulated in contracts, payable in kind or money, as the Government may desire.

The first cause for protest logically presents itself in that, in establishing this form of taxation, it was the Government's idea not that the taxes decreed should cover the requirements of the public administration within constitutional limits, but, being collectible only on a percentage basis and transitorily, they should serve to increase progressively the amount of the pension, fee, rental, royalty, or whatever it may be called, and thus establish recognition of the Nation's right of ownership.

As regards the right of ownership itself, Article 14 of the decree provides that the sole failure to submit manifestations relative to contracts, boundary limits, names of proprietors owning surrounding lands, and certified copies to be attached, is sufficient to declare the lands free, and, therefore, open to denunciation.

Article 14 of the Constitution says:

No law shall be given retroactive effect to the prejudice of any person whatsoever. No person shall be deprived of life, property, possessions or rights without due process of law instituted before a duly created court in which the essential elements of procedure are observed and in accordance with previously existing laws.

The article, therefore, states that the guarantees and rights of man are the principle of non-retroactivity in laws and the supreme principles of life, liberty, property and possessions or rights.

The principle of non-retroactivity is authorized and sanctioned; and only by due process of law before courts already established, and in accordance with the formalities of the case, subject to previously existing laws, may a man be deprived of his life, liberty, property or possessions.

That is to say, no subsequent law, even though it should be constitutional, can deny recognition to rights created under previous laws which protected and traced the lines of human activity.

To deny recognition through subsequent laws to that which has been created and formed previously and in obedience to legal and constitutional acts in force, is equivalent to converting all right into uncertainty, and to placing in the hands of governments the most precious interests of man which are necessary for his existence and development, and which have not been granted by any lawmaker or creator of constitutions, but recognized simply as essential to political institutions.

Furthermore, the sanction of non-retroactivity contained in Article 14 of the Constitution is absolute, and has no limits nor exceptions.

In accordance with this constitutional text, liberty, life, and property are on the same level. Consequently, to deny recognition to any one of them is equivalent to a violation not only of the letter but of the spirit of the republican Constitution.

That which we state regarding these rights, we affirm as regards the principle of non-retroactivity, inasmuch as its object is to cover and protect those three rights of man; and even more, to guarantee the continuity of those three rights, by protecting fully the development of the human personality.

Then, this principle is basic; in the social order Article 14 of the Constitution can not be violated or denied recognition by any one nor by anything. It makes itself manifest in the Government in any of its branches as the supreme guide and the supreme interpreter of all its acts and decisions.

The principle that a country may at any time in its history adopt the government it wants or change radically certain principles, is not sufficient to justify the denial of the rights of man. It is sufficient to apply this principle with its entire force of logic to each of them to appreciate the absurdity thereof. Let us suppose, for instance, that instead of violations of the right of property, it should be a matter of the violation of life or liberty. There is no one who would not be shocked at the tremendous possible consequences. Ten, fifteen, one hundred millions of souls may not capriciously or arbitrarily take the life or the liberty of one citizen, and much less place in the hands of governments such tremendous power.

Now, what has been said of life and liberty is stated also of the right of property, inasmuch as, according to the Constitution, which contains the serious and mature thought of a political evolution, the right of ownership has the same value, constitutionally speaking, as the others.

The decree which has caused this protest and complaint violates, Mr. President, in the light of these principles, our property rights and those emanating from the contracts of lease, in a manner which is evidently unjustified, inasmuch as the Government is not applying laws previously issued, neither does it follow the essential forms of procedure, nor does it demand in accordance with such laws and procedure the participation stipulated in rentals and royalties before tribunals previously established.

Lastly, the right of ownership being denied recognition in Article 14 of the decree, as well as the clean titles upon which it is founded or the secular description upon which it rests (auction of public possessions, quiet and continuous, with proper title and recognized by the community and by all governments in their different constitutional capacities, central, state, and municipal governments, and this right having been accepted as the basis for the payment of all taxes since remote times, and by agreements and arrangements with the Federal powers, basis, likewise, upon which property has been registered in the public registries and the great public registry), this irrevocable and perpetual right is done away with at one stroke of the pen, and with it the entire juridical right of the country, breaking violently its continuity in order that in an arbitrary manner all lands covered by it, together with the subsoil which forms an integral part thereof, may be passed to the ownership of the Nation.

Never has there been evidenced in so open and clear a manner the violation of Article 14 of the Constitution, and it is against that violation that we protest most respectfully in the belief that we are acting in behalf of the true national interests, requesting of you, Mr. President, your attention and assistance in solving, with the serious consideration the case demands, this important and transcendental question.

Therefore, we ask of you, that by virtue of the extraordinary powers with which you are vested in the Treasury, the following be done:

1. To cancel the decree of February 19, 1918, and the subsequent amendment thereto relative to the period of time stipulated, and to the persons who may denounce free lands.

2. In view of the provisions of Article 14 of the Constitution, to abstain from establishing regulations to govern the application of Article 27 thereof, until such time as the Congress of the Union, which is competent to do so, and in accordance with the constitutional forms and precepts, shall decide as to the manner in which Article 27 should be amended in all the parts thereof which may be in conflict with Article 14 of the Constitution, since that supreme precept is fundamental to constitutional order, and in it are found the rights of life, liberty, property, and the sanction of non-retroactivity.'

We protest [etc.]
[Here follow signatures.]

File No. 812.512/2007

The Ambassador in Mexico (Fletcher) to the Secretary of State

[Telegram]

MEXICO, June 21, 1918, 3 p. m.

1210. Universal editorial to-day repeats stronger arguments in support of Article 27 as revindicating rights of Nation to subsoil deposits and says that note of April 2 may be epitomized saying in thundering tones: "You must either make your political code conform to the ambitious caprice of American investments in your country or you will have to reckon with me." Concludes that note is not based upon justice and should never have been presented to the Mexican Government.

Editorial *Democrata* says the reply of the Mexican Government will be an energetic rebuff on the ground that the Government of the United States has no right to make representations on a matter which only concerns the Mexican Government and people.

FLETCHER

File No. 812.512/2041

The Ambassador in Mexico (Fletcher) to the Secretary of State

No. 1219

MEXICO, July 17, 1918.

SIR: With reference to my telegram No. 1268 of July 13, 10 a. m.,¹ I have the honor to transmit herewith a translation of the administrative regulations for enforcing Article 14 of the petroleum decree of February 19 last. These regulations are to go into effect August 1, the date fixed for the decree to become effective, and seem to indicate the determination of the Mexican Government not to recede from its original intention to enforce the decree.

This assumption is supported by other administrative acts of the past few days. As reported in my telegram No. 1272 of July 13,¹ the special stamp tax on petroleum for the *bimestre* July and August, recently announced in a Treasury Department circular, is an increase of approximately 100 per cent over that of the previous *bimestre* for the principal petroleum products. I am informed that the new rates were determined upon during Mr. Nieto's absence and are not approved by him, and the press to-day states that they have been materially lowered. The reported decreases are given in my telegram No. 1288 of July 17, 5 p. m.,¹ but special attention is invited to the fact that these lower rates are still approximately 50 per cent higher than the old rates.

Excelsior published yesterday the following notice purporting to be an official statement of the Department of Industry, Commerce and Labor:

The Department of Industry, Commerce, and Labor, through the Bureau of Petroleum, has made known to the owners of petroleum lands that "options" or promises of lease, given prior to May 1, 1917 (on which date the General Constitution went into effect), must not be raised to the status of definite contracts.

¹ Not printed.

This declaration has been made official, in view of the fact that, in accordance with Article 27 of the Constitution, the subsoil in the petroleum zone is not transferable, for which reason contracts made since that date shall be considered as null and void.

The press to-day also stated that a presidential decree has been signed imposing an additional tax of five pesos on each hectare of lands held for petroleum development, but this decree has not yet been officially published.

As stated in my confidential telegram No. 1249 of July 3, 11 a. m.,¹ until the petroleum difficulty is satisfactorily settled it will remain so formidable an obstacle to good understanding as to render futile all attempts at cordial friendship between the two Governments. So far there is no indication of any intention of the Government to recede from its often asserted determination to carry into effect the provisions and principles of Article 27 of the Constitution.

Messrs. Garfield and Rhoades are now here and have resumed their conferences with Secretaries Pani and Nieto, and I would invite the attention of the Department to their telegraphic reports sent through the Embassy and the Department to their principals showing the course their negotiations are taking.

I have [etc.]

HENRY P. FLETCHER

[Enclosure—Translation]

Regulations of July 8, 1918, covering the denouncement of oil lands²

Venustiano Carranza, Constitutional President of the United Mexican States, to the people thereof, be it known:

That in the exercise of the extraordinary faculties conferred upon me by the Honorable Congress of the Union in the Department of Finance, I have seen fit to issue the following:

Regulations to Article 14 of the decree of the 19th of February 1918:

ARTICLE 1. After the first day of August of this year, petroleum claims may be denounced on free ground.

ART. 2. A petroleum claim is considered to mean a plot of ground of unlimited depth, bounded underground by the vertical planes corresponding to the surface boundaries, with a continuous surface area of not less than four hectares, and destined to the exploitation of petroleum.

ART. 3. The exploitation of petroleum is considered to mean the extraction, collection or utilization of the following substances:

I. Crude petroleum encountered in pools, springs and natural deposits.

II. Gaseous hydrocarbides encountered in the subsoil or escaping from the surface.

III. Natural deposits of ozokerite and asphaltum.

IV. All such deposits of mixed hydrocarbides of the different groups as are due to the action of natural agents.

ART. 4. Land to which title has been granted for the exploitation of petroleum, or covering which there is a denouncement pending, shall not be considered as free ground.

ART. 5. Nor shall that be considered free ground the owner of which has presented to the Department of Industry, Commerce and Labor, a manifest in accordance with Article 14 of the tax law of February 19 of this year, and complying with the terms of Articles 1 and 3 of the decree of May 18; but land covering which a manifest has been presented shall become free ground unless denounced by the owner thereof within three months from the 31st day of July of this year.

¹ Not printed.

² *Díario Oficial*, July 13, 1918.

ART. 6. That land shall not be considered as free ground which has been acquired by contract for the exploitation of petroleum, and covering which a manifest is presented to the Department of Industry, Commerce and Labor in accordance with the law cited in the preceding article, within the period fixed by Articles 1 and 2 of the decree of May 18 of this year, and in compliance with the stipulations of Articles 1, 2 and 4, of the said decree; but land covering which a manifest has been presented shall become free ground unless denounced within two months subsequent to the granting of preference mentioned in Article 2 of the said decree of May 18. The said establishment of preference will be made during the first fortnight of the month of November of this year.

ART. 7. Nor, for the purposes of this decree and without prejudice to the stipulations of Article 27 of the Constitution, shall that be considered as free ground which is protected by a contract of concession celebrated by the National Government with some individual or company, covering the exploitation of petroleum.

ART. 8. Lands dedicated to the common use, laylands and National lands, tribal lands and undivided commons may not be denounced.

ART. 9. A denunciation will only cover a single petroleum claim.

ART. 10. A person desiring to acquire a petroleum claim shall present in duplicate to the proper agency of the petroleum branch of the Department of Industry, Commerce and Labor, a denunciation in which there must appear his name, age, profession, domicile and nationality, as also the location, area, boundaries and all such other data as will serve to identify the claim in question.

ART. 11. If the denouncer is a foreigner, he must present with his petition a statement from the Department of Foreign Relations, certifying to his having complied with the requisitions of Article 27 of the Federal Constitution.

ART. 12. The petitioner must also attach to his denunciation a statement from the revenue stamp tax office certifying to his having deposited therein the value of the stamps which should be attached to the title, in accordance with the area of the claim denounced.

ART. 13. The agent of the petroleum branch will receive the denunciation, entering the same in his book of registry, and noting therein and on the original and duplicate of the denunciation the date and hour of presentation. The denouncer may demand that these notations be made in his presence. If in the judgment of the agent the denunciation is not sufficiently clear and comprehensive, he may make a notation to that effect on the original and duplicate thereof, and in his book of registry; but the lack of explanatory data shall not constitute cause for not registering the denunciation. The duplicate of the denunciation, with the respective notations thereon, will be returned to the person presenting same.

ART. 14. Within three days after the presentation of a denunciation the agent shall decide whether or not it shall be admitted. If admitted, he shall proceed forthwith to prepare the necessary documents; if not, he shall set forth in writing the reason for his adverse decision, which shall be subject to reconsideration by the Department of Industry, Commerce and Labor, upon request of the denouncer, presented to the said agent upon being notified of the non-acceptance of the denunciation or within three days thereafter.

ART. 15. When two or more denunciations presented simultaneously and covering the same land have been declared admissible, chance shall decide which denunciation is to be given preference, unless the interested parties should reach an agreement among themselves as to such preference.

In cases analogous to those provided for in Circular No. 28 of the Department of Mines, the method of procedure established in the said circular shall be followed.

ART. 16. Once an agent has accepted a denunciation, he shall exhibit same on his bulletin board during one month, and shall cause same to be inserted three times during the same period, in the *Diario Oficial* and in other publications chosen from among those of greatest circulation in the locality. The interested party shall arrange for these insertions for his own account.

ART. 17. The following are the causes upon which objections to a denunciation may be based, interrupting the legal course thereof:

- I. The total or partial invasion of a titled petroleum claim whose title has not been declared canceled;
- II. A previous denunciation legally presented covering a part or all of the claim denounced;

III. The period during which this regulation grants preference to some person or company regarding the claim in question, or a part thereof, not having terminated at the time a denouncement is made.

ART. 18. Objections to a denouncement, based upon any of the causes established by the preceding article, must be filed with the petroleum agency during a period of 60 days counting from the date on which the denouncement is first exhibited on the bulletin board of the agency.

ART. 19. The opposer shall present, together with his objections, a certificate from the corresponding principal revenue stamp office, wherein it is stated that he has deposited therein an amount equal to one year's rental on the claim in question, in accordance with Articles 2 and 4 of the decree of February 19 of this year. Unless the said certificate is presented, the objections will not be admitted.

ART. 20. The objections having been filed, the interested parties will be cited to appear at a meeting, following the manner of procedure established by the regulations of the mining law in force. Those parties who fail to appear shall be advised in the act that they may have recourse to either administrative or judicial channels to adjust their differences.

ART. 21. Should the interested parties not immediately elect to handle the matter through administrative channels, the course of the denouncement shall be interrupted, and the documents thereof shall, within 48 hours, be passed to the judicial authorities, for the substantiation of the corresponding suit at law. The opposer may only base his opposition upon the causes which he has alleged and which are expressly set forth in the administrative documents, just as the same have been remitted to the judicial authorities.

ART. 22. In case the interested parties decide to handle the matter through the administrative channels, the denouncement documents will continue their course, to the end that when convenient the Department of Industry, Commerce and Labor, having heard both the denouncer and the opposer, may render a final decision.

ART. 23. Should the interested parties have elected to handle the matter through administrative channels, they may not have recourse to judicial channels, but if they have chosen the latter, they may, previous to a court decision having been rendered, submit the matter to the decision of the Department of Industry, Commerce and Labor.

ART. 24. Any other objection, founded on causes distinct from those expressed in Article 17, should be filed with the agency, but the latter will not in that case suspend the course of the denouncement; the Department of Industry, Commerce and Labor, when the documents are passed thereto for review, will then decide whether or not such objection should be given consideration. If the former, the objection will be substantiated and decided, observing the form of procedure set forth in Articles 20 to 23. If the Department decides not to take into account the objection filed, it shall proceed as though no objection had been made, the opposer reserving his due rights.

ART. 25. The Department of Industry, Commerce and Labor may take under consideration objections to the denouncement presented thereto during the course of the examination of the documents, providing that the opposer furnishes proof of not having had recourse to the petroleum agency for causes beyond his control.

ART. 26. A denouncer of a petroleum claim shall be declared as having forfeited his rights should he fail to make the insertions required by Article 15, during the period fixed by the said article; should he fail to furnish data requested within the period fixed therefor, in order to proceed with the investigation of the denouncement; and should he fail to appear at the meeting cited if objections or opposition to the denouncement should be filed. Such denouncer shall forfeit the deposit referred to in Article 12.

ART. 27. An opposer who fails to appear at the meeting cited shall be considered as having forfeited his right to object to the denouncement, except in case such failure to appear is due to causes beyond his control.

ART. 28. An opposer who forfeits his rights, or one whose objections prove unfounded, shall forfeit the deposit established by Article 19, which shall be applied to the payment of one year's rental on the claim, counting from the date on which the denouncement was presented.

ART. 29. Should a final decision thereon not be rendered within one year after the filing of an objection to a denouncement, the denouncer and the opposer shall each deposit an amount equal to one year's rental, in the corre-

sponding principal revenue stamp office, the same rule applying for each further year that the final decision may be delayed.

The deposits made by the party in whose favor the final decision is rendered, shall be applied to the payment of rentals on the claim, and those made by the party losing the decision shall become a part of the national revenues, the first party reserving the right to demand indemnity from the second party, corresponding to the matter in question.

ART. 30. The Department of Industry, Commerce and Labor may absolve the party who fails to appear at the meeting held for adjustment of the objections, should the denouncer furnish proof that his failure to appear was due to causes beyond his control.

ART. 31. The period of 60 days having elapsed, without any objection having been filed which furnishes cause for the suspension of the administrative proceedings, the petroleum agent must remit to the Department of Industry, Commerce and Labor, copies of the denunciation documents showing the status thereof.

ART. 32. The titles covering petroleum claims shall be issued through the Department of Industry, Commerce and Labor, after the petroleum bureau has reviewed the agency documents. Such titles confer possession of the respective claims, without the necessity of any other formality.

ART. 33. Titles shall be issued to the party presenting the denunciation, without prejudice to the rights of a third party. In order that titles may be issued in favor of persons other than those making the denunciations, it shall be necessary to furnish proof in the form of a public instrument to the effect that the rights of the denouncer have been transferred to the other party. The interested party must furnish proof of having paid the rental corresponding to the claim, before title may be delivered to him.

ART. 34. In the cases of community lands, only the coowners may denounce petroleum claims, and the denunciation proceedings shall be discontinued until all the coowners or their representatives have appeared before the Secretary of Industry, Commerce and Labor, who shall issue calls for such meetings with due anticipation, to furnish express and proven manifestations of their individual rights, and an agreement having been reached, a common title to the petroleum claim covering the subsoil of the land *pro indiviso* shall be issued. In such titles the representation of each coowner shall be expressed.

The Department of Industry, Commerce and Labor has the power to appoint a commission which shall have charge of handling before the proper authority, the issuance of the titles of ownership to the coowners.

ART. 35. A period of two months having elapsed, counted from the date of issuance of titles to the land to which the foregoing article refers, without the interested parties having exercised the right conceded by the said article, the said lands will be considered as free ground and susceptible of being granted to the first person soliciting same for the purpose of exploiting petroleum.

ART. 36. The concessionaire of a claim may extract therefrom all the substances referred to in Article 3, without other restriction than that of not invading with his extraction operations neighboring claims, and that of complying with the disposition of this regulation and of those which may be issued covering exploitation.

ART. 37. The exploiters of a petroleum claim may occupy, within the limits of the claim and with due authorization from the Department of Industry, Commerce and Labor, surface space necessary for the extraction operations and the immediate storage of the products extracted, paying to the proper party the corresponding indemnity, but in the latter case the proceedings engendered thereby shall not be permitted to delay the exploitation operations.

ART. 38. The exploiters of a petroleum claim may acquire right of passage, and pipe-line right of way, upon due authorization from the Department of Industry, Commerce and Labor, and may install such pipe lines and pumping stations as the exploitation of the claim requires, paying to the interested parties the corresponding indemnities therefor.

ART. 39. The exploiters of a petroleum claim shall have the right to establish storage plants and refineries, with the approval of the Department of Industry, Commerce and Labor and with the consent of the owners of the lands they propose to occupy. In case the consent of the owners can not be obtained, the areas necessary may be expropriated.

ART. 40. The exploiters of petroleum claims shall have the right to construct wharves, loading stations, and submarine pipe lines, with the approval of the Department of Industry, Commerce and Labor, in conformity with the disposi-

tions which the Departments of Finance and Public Credit and of Communications and Public Works dictate on the subject.

ART. 41. On petroleum claims, only the respective concessionaires shall have the right to construct storage stations and refineries.

ART. 42. The concessionaire of a claim may use the surface waters necessary to his operations, in accordance with the common laws covering such matters. He may use underground waters, for the same purpose, upon authorization from the Department of Industry, Commerce and Labor, and upon payment of the corresponding indemnity to whoever may be entitled thereto.

ART. 43. Only within three years following the issuance of the respective title, may the concessionaire solicit the reduction in size of his claim; the reduced claim will be resurveyed and a new title issued therefor, the previous title being canceled.

ART. 44. The concessionaire of a petroleum claim on contracted land shall pay the tax established by the law of February 19, 1918, in the terms fixed by Articles 2, 3 and 13 of the said law, the assessment fixed by Article 16 of the said law applying in such cases.

ART. 45. The concessionaire of a petroleum claim on land not under contract shall pay the tax established by Article 4 of the law above cited.

ART. 46. Rentals shall commence from the date of denunciation, and shall be payable bimonthly in advance, and such payments should be made during the first fortnight of each bimonthly term.

ART. 47. During the period of one year from the date of issuance of the title covering a petroleum claim, the interested party must erect monuments at the vertices and other principal boundary points, and such intermediate monuments as may be necessary, so that each be visible from the preceding one, and must present in duplicate to the Petroleum Department, a map of the land so marked. This map must comply with the requisites fixed by the Department of Industry, Commerce and Labor, and in accordance therewith the ratification or rectification of the title shall proceed.

ART. 48. Within the period of two years counted from the issuance of the title, the interested party should present in duplicate to the Department of Petroleum plans and descriptive memorial of the plants and installations projected for the exploitation of the petroleum claim. These plans and memorials must comply with the requisites fixed by the Department of Industry, Commerce and Labor.

ART. 49. Within the period of three years counted from the issuance of the respective title, the concessionaire of a petroleum claim must furnish proof to the Department of Petroleum that he has commenced the work of exploiting the claim.

ART. 50. When it is desired to reduce the size of a petroleum claim, the petition for such reduction, together with a map of the claim and the primitive title, must be presented to the corresponding petroleum agency. The issuance of a new title cancels the previous one.

The issuance of a new title having been agreed to, the surplus land included under the primitive title will be declared free ground, and a period fixed during which the interested party must erect new monuments.

ART. 51. The ratification or rectification mentioned in Article 47 may be made upon petition of the owner of the claim, of the owners of adjoining claims who may be interested therein, or *ex officio* by the Department of Industry, Commerce and Labor. In the latter case the final decision of the Department mentioned will not prejudice the rights of the owner of the petroleum claim in question, or with those of the neighbors who consider their interests to have been damaged.

ART. 52. Every concessionaire of a petroleum claim is obligated to furnish to the Department of Industry, Commerce and Labor, such technical and economical data as may be requested by the Petroleum Department, and to admit to the plants the students of the official schools who visit such plants for the purpose of acquiring practical knowledge of the petroleum industry, furnishing every facility to such students. These obligations also apply to concessionaires of pipe lines, refineries, storage plants and loading stations.

ART. 53. The following shall be considered as causes for the cancellation of petroleum-claim titles: failure to pay the tax referred to in Articles 44 and 45; failure to comply with the conditions imposed by Articles 47, 48, 49 and 52; closing down of the works for a continuous period of six months without just cause, after the work of exploitation has commenced; or any serious infraction of the regulations of exploitation, in the terms expressed therein.

ART. 54. Cancelation of a claim will be declared administratively by the Department of Industry, Commerce and Labor, after the interested party has been cited to appear in his own defense.

ART. 55. In the cases of cancelation of titles for failure to make rental payments, the corresponding declaration will be made within the four months subsequent to the bimonthly term in which the said rental payments were not made.

In the cases of cancelation for failure to pay royalty, the declaration of cancellation will be made during the bimonthly term following that in which the penalty was incurred.

ART. 56. The titled claim of any holder of the right of exploitation whose title is declared canceled, may only be denounced during the three months subsequent to the date of cancelation, by the previous concessionaire and by the owner of the surface area of the claim, who, for that purpose, must present a manifest in the form prescribed in Article 4 of the decree of May 18 of this year, in order that the petroleum agency of the Department of Industry, Commerce and Labor may admit the denouncement of the person making such manifest, as being the last holder of the right of exploitation.

If a claim whose title is declared canceled be under the exploitation of a third party through a contract still in force, the said contract of exploitation shall retain its force, the former concessionaire being substituted by the new one for the effects of the said contract.

ART. 57. The direct exploiter of a claim, officially recognized as such, although not the holder of the concession therefor, in case the title should be declared canceled shall enjoy the preferent right to denounce same within the thirty days following the period conceded by the preceding article to the various concessionaires of the right of exploitation and to the owner of the surface area of the claim, providing that none of the latter have made use of their rights.

He shall also enjoy such preference in cases of cancelation of titles not covered by the preceding article, within the period of thirty days following the date on which the declaration of cancelation is exhibited on the bulletin board of the respective agency.

ART. 58. Any claim on land under contract the title to which is declared canceled, shall be considered as free ground as soon as the periods fixed by the two preceding articles have terminated, and thirty days have transpired since the date on which the declaration that the claim is free ground was first exhibited on the bulletin board of the respective agency.

ART. 59. Any claim on land not under contract the title to which is declared canceled, shall be considered as free ground thirty days after the declaration of cancelation is first exhibited on the bulletin board of the respective agency.

TRANSITORY ARTICLES

I. Denouncements will be admitted on manifested lots the area of which is less than four hectares, if wells in process of drilling or in production, covered by concessions previously granted, exist thereon.

II. All other laws and regulations are hereby annulled in so far as they may conflict with these regulations.

I therefore order that these regulations be printed, published, circulated, and duly complied with.

Given at the Palace of the Executive Power of the Union, on the eighth day of the month of July, nineteen hundred and eighteen.

V. CARRANZA [RUBRIC]

File No. 812.512/2047

*The Ambassador in Mexico (Fletcher) to the Secretary of State
No. 1241*

MEXICO, July 19, 1918.

SIR: I have the honor to enclose, herewith, the text and translation of a presidential decree imposing a tax on petroleum claims of five pesos per hectare or fraction thereof greater than one-half a hectare.

I have [etc.]

HENRY P. FLETCHER

[Enclosure—Translation]

Decree of July 8, 1918, imposing a tax on petroleum claims, amplifying Fraction 101 of Article 14 of the stamp law of 1906¹

I, Venustiano Carranza, Constitutional President of the United Mexican States, to the people thereof make known:

That in the use of the extraordinary powers vested in me in the Department of the Treasury, have seen fit to decree the following:

ARTICLE 1. Article 14, Fraction 101, of the Federal stamp law of 1906 is amplified by the addition of the following paragraph:

II. Those relating to the petroleum claim, for each hectare or fraction equal to or greater than half a hectare, of the area covered by each title, five pesos. The stamps shall bear an over-seal reading: "Petroleum titles".

ARTICLE 2. Paragraphs II and III of the fraction amplified shall in future be numbered III and IV, respectively.

I, therefore, order that this be printed, published, distributed, and duly complied with.

Given at the Palace of the Executive Power of the Union, in Mexico, this eighth day of July, nineteen hundred and eighteen.

V. CARRANZA [RUBRIC]

File No. 812.512/2122

Mr. Harold Walker to the Counselor for the Department of State (Polk)

WASHINGTON, July 20, 1918.

MY DEAR MR. POLK: The expected crisis has come. The Mexican Government, in defiance of the American Government's note of April 4 [2], 1918, has issued and published, in violation of a promise made to Garfield and Rhoades not to alter the *status quo* of negotiations during their absence, a *reglamento* or regulations of the decree of February 19.

So drastic is the *reglamento* that Garfield and Rhoades by cablegram, forwarded through your Department, recommend to the companies that they shut down operations.

The *reglamento* puts into effect more strongly than the decree does the confiscatory features of Article 27 of the Constitution.

We have been assured by your Department that the United States Government will not tolerate the confiscation of the legally acquired oil properties of its nationals in Mexico.

The annexed memorandum, however, shows the dilemma in which American oil producers in Mexico now find themselves.

We desire, of course, to exhaust our legal remedies in Mexico and have worked assiduously to this end. But the only legal remedy is the filing of an *amparo* in the Federal courts. An *amparo* cannot be filed unless an act violating constitutional guaranties has been consummated; and delivery of deeds and leases will be alleged as an acceptance of any subsequent executive act under the decree, waiving rights of appeal.

The annexed memorandum will give you the facts, and the queries which your fellow citizens, now engaged against great odds in supplying the American and British Navies with their fuel, believe your Department should answer before we take, or omit, positive action on the 31st of July this year.

¹ *Diario oficial*, July 16, 1918.

If, as we believe and have no reason to doubt, the American Government will take effective action to protect its nationals in the enjoyment of their legal rights, and will move promptly to that end, we believe all American companies should combine in refusal to present the manifestations on July 31, which manifestations when presented will wipe out any ground for bringing suit and will give us only two months more enjoyment of our rights; but without your assurance that the Government will protect us in our rights, we are not justified in risking the executive acts of the Mexican Government which will surely follow such refusal.

I believe under the circumstances you will appreciate the justice of our request for an answer to the queries in annexed memorandum, the securing of which reply is the object of the writing of this communication.

Yours most sincerely,

H. WALKER

[Enclosure]

Confiscation of oil properties in Mexico

MEMORANDUM

1. Mexican decrees and regulations thereof provide that all owners and lessees of oil lands must present certified copies of their deeds and leases to the Department of Industry on July 31.

2. In case of failure so to present deeds and leases, the lands in question shall be declared "free lands", or open to filing of mining claims thereon by Mexican individuals, foreigners renouncing their citizenship, and Mexican corporations only.

3. Present owners and lessees, who do so file their deeds and leases, are granted for two months a preferential right ahead of the public to file mineral claims on the lands in question.

4. But by the Attorney General's official interpretation of the Constitution, no foreign corporation may enjoy a mining concession (*denunciation rights*) in Mexico.

Therefore, whatever action they take on July 31, American companies owning and having oil lands in Mexico are by the action of law despoiled of their rights.

The only advantage in presenting deeds is the possibility of continuing the delivery of petroleum to the Allies for two months after July 31.

5. If the owners and lessees file their deeds and leases on July 31, even under protest, they comply with and accept the laws, and under Mexican procedure are deprived of their only legal remedy (*amparo* which lies only against the consummation of an administrative act in violation of constitutional guarantees).

If they file their documents of title, therefore, they can be said to have voluntarily estopped themselves from exhausting their remedies in the municipal courts of Mexico.

6. Quandary:

(a) If documents are not presented, the right of appeal to Mexican courts is saved, but meantime the properties are open to "denunciation" by third parties. Confiscation is complete.

(b) If documents are presented, the Mexican owners and lessees have two months in which to "denounce" petroleum claims on their own properties; but foreign companies have no such right, and further by the act of presentation of deeds and leases, lose their right to appeal against the illegal and confiscatory features of the decrees and regulations.

7. On April 4 [2], 1918, the American Government formally protested against the confiscation of legally acquired oil rights by the decree of February 19, stating it might be impelled to protect these rights of its nationals.

Query 1. Will the State Department advise American companies enjoying petroleum rights in Mexico as to what step or steps to take in the premises?

Query 2. If the companies refuse to present deeds and leases, will the Department assure them that their legally acquired rights as owners and lessees will be effectually protected?

Query 3. Would the presentation of deeds and leases by American companies embarrass the Department in any action it may take in pursuance of the protest contained in the note of April 4 [2]?

Query 4. Would the Department under the circumstances, (as delivery of documents is plainly to be made under duress) in its future handling of the case, accept the fact that if the companies have not exhausted their remedies such failure was compelled by necessity; or will the Department take the position that it can take no steps for the reason that the companies have not exhausted their remedies? If the Mexican Government alleges that the companies have failed to exhaust their remedies, as an answer to future protest or action, will the State Department take the stand that the companies were forced to waive their remedies, and that therefore exhaustion of remedies in the municipal courts is not essential to international action in this case?

WASHINGTON, July 19, 1918.

File No. 812.512/2062

The Ambassador in Mexico (Fletcher) to the Secretary of State

No. 1273

MEXICO, July 31, 1918.

SIR: I have the honor to confirm my telegram of yesterday¹ reporting the departure of Messrs. Garfield and Rhoades for Houston, Texas, where they expect to report to their principals the results of their negotiations with the representatives of the Mexican Government with respect to the petroleum decree of February 19 last and the decrees on the same subject issued subsequently.

Before leaving, Messrs. Pani and Nieto, with the approval of President Carranza, handed them a signed memorandum embodying the interpretations and modifications of said decrees which the Mexican Government has made or will make as a result of their conferences here. I enclose copy and translation of this memorandum as published to-day.

I have been kept fully informed by Mr. Garfield of the progress of the negotiations, but have taken no part in them. Mr. Pani gave a dinner in honor of Messrs. Garfield and Rhoades the night before they left Mexico, which I attended, and after which various features of the case were discussed informally. Mr. Pani affected to think the question definitely settled. As I had not read the memorandum above mentioned, which was signed and given to them after dinner, I refrained from any except most general observations.

Messrs. Garfield and Rhoades had suggested in writing to Messrs. Pani and Nieto that the proposed new petroleum decree, which it is understood will embrace the modifications, etc., covered by the memorandum herewith, should contain as a preamble the following declarations:

That, it being necessary to unify the laws relative to the petroleum industry, in order to obtain the development and exploitation of the deposits and other similar substances in conformity with the interests of the people and of the commercial progress of the nation, and to the end of preventing a monopoly of the petroleum industry and of recognizing and assuring justly and equitably the rights legitimately acquired by the persons and associations which have, in good faith, invested capital in the development and exploitation of the industry referred to, etc.

Mr. Pani promised to study this proposal and indicated a willingness to incorporate all except the really important part relating to

¹ Not printed.

the recognition of legitimately acquired rights, etc. But, of course, even the part he approves of may be disapproved by President Carranza. In fact, it is clear to me that the Mexican Government is not willing to yield a particle on the question of principle and that if the American companies accept the law, even as modified as per the memorandum herewith, they will yield and renounce all rights and titles which they may have heretofore acquired. The whole intent of this legislation by decree is to give effect to Article 27 of the 1917 Constitution, and the negotiations of Messrs. Garfield and Rhoades, while productive of certain clarifications in the matter of interpretation and of certain modifications in practice and taxation favorable to the interests of their clients, have not served in any way to remove the great obstacle to a definitive settlement of this question.

Mr. Garfield will proceed directly from the meeting at Houston to Washington and will report fully to the Department as to his negotiations here and the deliberations of the companies' representatives at Houston.

I have [etc.]

HENRY P. FLETCHER

[Enclosure—Translation]

Official announcement of modifications to the petroleum land tax law and to the decrees of May and July¹

(We publish below the memorandum which Messrs. Alberto J. Pani, Secretary of Industry, Commerce and Labor, and Rafael Nieto, Undersecretary of the Treasury and Public Credit, gave to the press, relative to the negotiations with the Mexican Government conducted by Messrs. Nelson O. Rhoades and James R. Garfield.)

Messrs. James R. Garfield and Nelson O. Rhoades, representatives of the following oil companies,

Huasteca Petroleum Co.,
Mexican Petroleum Co.,
Compañía Petrolera Pan-Americana,
Tuxpan Petroleum Co.,
Doheny & Bridge,
Chiconcillo Petroleum Co.,
The Texas Company of Mexico,
Richard E. Brooks,
Pánuco Transportation Co., S. A.,
Standard Oil Company of New Jersey,
Compañía Transcontinental de Petróleo, S. A.,
The Veracruz Mexican Oil Syndicate, Ltd.,
International Petroleum Co.,
Southern Oil & Transportation Co.,
Tampico Navigation Co.,
Scottish Mex. Oil Co.,
Compañía Petrolera Tal Vez, S. A.,
Producers Terminal Corp.
Pánuco Oil Co.,
The National Oil Co.,
The National Ship Co.,
Mexican National Oil Co.,
John F. Penrose,
Penrose & Riler,
Compañía Mexicana de Petróleo "El Aguila", S. A.,

Island Oil & Transport,
Compañía Metropolitana de Oleoductos, S. A.,
Compañía Mexicana de Petróleo "La Libertad", S. A.,
"La Atlántica", Compañía Mexicana Productora y Refinadora de Petróleo, S. A.,
Pánuco Boston Oil Co.,
Port Lobos Petroleum Corp.,
Cortez Oil Corp.,
Adrian Petroleum Co., Inc.,
Aguada Petroleum Corp.,
Victor Petroleum Corp.,
Penn-Mex. Fuel Oil Co.,
Freeport & Mexican Fuel Oil Corp.,
Mexican Sinclair Petroleum Corp.,
James A. Weir,
C. F. Ireland,
Compañía Terminal de Lobos, S. A.,
Mexican Gulf Oil Co.,
Compañía de Petróleo "La Corona", S. A.,
New England Fuel Oil Co.,
New England,
Union Oil of Mexico, S. A.,

¹ *El Universal*, July 31, 1918.

have held various conferences with the undersigned, in which the following questions were discussed: The decree of February 19 last fixing taxes on oil lands and oil leases; that of May 18 this year extending the period for the presentation of the manifestations prescribed and outlining the manner in which they should be made up; and lastly, the two decrees of the 8th instant relative to the title tax and the regulations governing the denunciation of petroleum claims.

As a result of the conferences held with Messrs. Garfield and Rhoades in representation of the oil companies listed, we the undersigned make known that the President of the Republic has approved the following interpretations and modifications with respect to the provisions of the decrees under consideration:

I. THE DECREE OF FEBRUARY 19, 1918, ESTABLISHING TAXES ON OIL LANDS AND OIL LEASES

1. For the collection of the tax prescribed in Article 2 of this decree, it is understood that the rents fixed are in national gold, and if any other class of money is stipulated in leases or transfers, the same shall be reduced to national metallic gold in conformity with existing Treasury rulings.

2. The royalties referred to in Article 3 of the same decree, are the percentages of production payable by the exploiters to middlemen or landowners, in kind or in cash; or, the amount of money stipulated in the contracts as payable on each barrel (or other unit of measure) of oil extracted or produced.

When, in contracts made prior to May 1, 1917, the royalty is stipulated as payable on the basis of a specified amount of money per barrel or other unit of oil, the 50 per cent thereof payable to the Nation shall be collectible in metallic currency.

3. Independently of whether the royalties stipulated in leases are called for in kind or in cash, the Department of the Treasury and Public Credit is empowered to collect the 50 per cent of the royalties corresponding to the nation, in one or the other; it being understood, naturally, that when collection is made in kind, the exploiter's interests will not be injured in any way.

4. Exploited claims, referred to in Article 4 of the said decree, are understood to be—with respect to the "manifestations" only—those on which there is at least one oil well producing an amount which is commercially profitable.

The royalty referred to in this article shall be calculated on actual and not on potential production.

5. The transfer transactions referred to in Article 10 of the decree under consideration, are understood to be those made after the date of promulgation of the said decree and which originate directly or indirectly from contracts entered into prior to May 1, 1917.

6. The obligation imposed by Article 11 of the decree in question, to the effect that the royalty corresponding to the nation, when payable in kind, shall be delivered at one of the exploiter's storage tanks to be specified by the Department of the Treasury and Public Credit, has for its sole purpose that of assuring the fulfilment of the accidental requirements of the public service, without injury of any kind to the exploiter.

7. For the purposes of Article 12 of the decree of February 19, 1918, the tax value of oil at Mexican ports of shipment shall be determined by deducting from the quotations published in the stock exchange bulletin of New York, the actual transportation cost from shipping ports to New York City.

II. DECREE OF MAY 18, 1918, EXTENDING THE PERIOD FIXED BY ARTICLE 14 OF THE DECREE OF FEBRUARY 19 LAST FOR THE PRESENTATION OF MANIFESTATIONS AND SPECIFYING THE MANNER OF PREPARING THEM

8. The time limit fixed under Article 1 of this decree, within which parties interested shall present their manifestations to the Department of Industry, Commerce and Labor, is extended to the 15th of August next, inclusive.

9. The manifestations which foreign companies may present shall be received, and these companies shall have at their disposal the entire time required for denunciation procedures, for the purpose of organizing subsidiary or allied companies to which shall be granted titles to the claims denounced, thereby observing the provisions of Article 27 of the present Constitution, which expressly states that concessions for the exploitation of the natural resources of the subsoil, shall be granted only to persons or companies organized under the laws of Mexico.

III. DECREE OF JULY 8, 1918, CONTAINING REGULATIONS GOVERNING ARTICLE 14 OF THE DECREE OF FEBRUARY 19, 1918

10. The date beginning with which oil claims may be denounced on free land, to which reference is made in Article 1 of this decree, is changed also to August 15 next, inclusive. The corresponding changes of the dates stipulated in the other articles of this decree are also made, taking into account the extension of fifteen days more granted for the presentation of manifestations and for the denunciation of claims.

11. With reference to the provision in Article 6 of this decree and in a manner analogous to that indicated in Article 5, that land shall be declared to be free which may have been covered by a manifestation but which may not have been denounced by the party making the manifestation, who is entitled to preference, within two months following the date of presentation of the declaration to the Department of Industry, Commerce and Labor.

12. Article 30 shall be modified in the sense that the Department of Industry, Commerce and Labor may pardon any faults incurred by the tardy denouncer, covered by Article 26, when satisfactory proof is presented to show that such faults were due to reasons of *force majeure*.

13. The community lands referred to in Articles 34 and 35 of this decree, are those which up to May 1, 1917, had not been leased. Those which may have been legally leased may be denounced by the last cessionary and other middlemen, on condition that they shall previously have been covered by manifestation. Article 34 shall be modified in this sense.

14. Article 43 shall be modified as follows:

The concessionaires may at any time request a reduction in their claims; the claims of which they are relieved shall be staked off and new titles issued to cover the same, canceling the previous titles. The new titles shall not in these cases be subject to the title tax.

15. The concessionaire of a claim on ground which has not been leased, shall pay the tax prescribed in Article 4 of the decree of February 19, 1918; that is, five pesos yearly per hectare and 5 per cent of the actual production of the wells drilled within the claim, it being well understood that the rental shall be paid even though the claim is not operated.

16. A fine shall be imposed for failure to comply with the obligations prescribed in Article 47 of from 50 to 1,000 pesos, according to the gravity and frequency of the offense of non-compliance with these obligations, this without prejudice to the right of the Department of Industry, Commerce and Labor to have the land staked out and the corresponding plans made, at the expense of the concessionaire of the claim.

17. The concessionaires shall also be subject to a fine of from 50 to 1,000 pesos, depending on the condition of the claim, for failure to comply with the obligation provided for in Article 48 of this decree.

18. Article 50 shall be modified in line with the new reading of Article 43.

19. Failures to comply with the obligations covered by Articles 47 and 48, shall no longer be considered as a cause for cancellation, and such failures shall be penalized as hereinbefore indicated, when such failures are not due to reasons of *force majeure*, duly proven. Article 53 shall be changed in this sense.

IV. DECREE OF JULY 8, 1918, WHICH ADDS TO FRACTION 101 OF ARTICLE 14 OF THE FEDERAL STAMP TAX LAW OF 1906

20. The title tax fixed by the decree stated shall be reduced to three pesos per hectare.

21. In payment of the title tax, the credits which the petroleum companies have against the Mexican Government under the loans they have made to it for the Panuco River dredging work, shall be accepted.

Mexico, the twenty-ninth day of July, one thousand nine hundred and eighteen.

Secretary of Industry, Commerce and Labor,

A. J. PANI [RUBRIC]

Undersecretary of the Treasury and Public Credit,

RAFAEL NIETO [RUBRIC]

File No. 812.512/2094

*The committee representing the oil producers in Mexico to the
Assistant Counselor for the Department of State (Auchincloss)*

[Telegram]

* HOUSTON, TEX., August 4, 1918.

Because of newspaper statements before referred to we think it proper to repeat to you a telegram which we are to-night sending to Honorable M. L. Requa, Chief of Oil Division of Fuel Administration, as follows:

The committee representing the producers of oil in Mexico which was charged with the duty to acquaint our Government with the imminent danger that the needs of the United States and its allies for oil from Mexico cannot be supplied deem it proper to advise you as the official directly interested in this important matter, and through you our Government, that the following is the present status:

1. There is no foundation for the newspaper statements emanating from Washington that an adjustment of the controversy has been reached with the Carranza Government by Garfield and Rhoades representing such producers. We have been in conference with these two gentlemen for several days. They have been at work for six or more weeks endeavoring to persuade the Carranza Government to adopt some plan under which our rights to oil lands would be preserved and our operations in Mexico could continue. No agreement has been reached; none can be reached and all negotiations have terminated.

2. Substantially all that Garfield and Rhoades have secured is a promise that Carranza will issue a new decree whereunder American and other foreign corporations can by renunciation of their citizenship and with abandonment of their present rights and titles to oil and gas secure to Mexico [Mexican] subsidiary corporations to be created petroleum mining claims just as individuals can upon their present properties. This decree has not yet issued.

3. If this decree shall issue we shall continue to be confronted with the same dilemma which presents under the present decree of July 8. This dilemma is that if we shall not file reports by August 15, our entire present rights to oil lands on that day will be annulled. On the other hand, if we shall file such reports by day stated all that we could get should be a mere license for the Mexican subsidiary to be formed to extract oil from our present properties. The advice of the best lawyers in Mexico is that Carranza has no lawful power to make this decree nor to extend such a mining license. Nevertheless they advise that it is hopeless to restrain the enforcement of this decree by any application to Mexican courts which are wholly under Carranza's control. These lawyers further advise against presenting any protest with our reports if filed because such protest will be of no avail either practically or legally and will probably be the cause of the rejection of such reports.

4. It is our unanimous opinion that the filing of the reports will constitute an acquiescence in the confiscation of our property and that the only pretense of claim which this decree would give us is a mere license based solely on an illegal decree of Carranza and terminable at the will of an utterly irresponsible government. It is our further opinion that the same usurpatory power which Carranza exercises to confer such license can at any time be exercised to destroy it. Considering the matter from the viewpoint of our own interests it is our opinion that it would be folly to file these reports and thereby surrender our titles, lawfully acquired, in exchange for so precarious a mining license.

5. Considering the matter from the viewpoint of the need of our nation to get oil we think that our refusal to file such reports will place our Government in the best position to protect us; that in so doing it would exercise a right often availed of by the leading nations of the world: that a consequence merely of the exercise of this plain right to protect our property from confiscation will be to assure the continuance of these oil supplies. We further think that in the absence of an intimation that our Government wishes us to act otherwise we should refuse to file these reports, for to file same would be to acquire [acquiesce?] in a confiscation which our Government in the note of the State

Department of April 4 [2] has said it would not permit. In brief, we concur in the ideas expressed by Proctor in letter to Doctor Garfield of July 26.

6. Further it is our conclusion that even if the imminent confiscation of our properties and ouster therefrom could be avoided still we cannot induce our essential American skilled laborers to remain under present conditions of utter lawlessness. Since this matter was first presented to Doctor Garfield one employee, an American of the Cortez Oil Company, has been murdered and another, a Mexican, seriously wounded and also an American cashier of the Texas Company has been murdered. Thursday last, an American paymaster of the Mexican Gulf was fired upon and robbed. Two of the managers at Tampico have sent us word by special messenger that the men will no longer remain unless protection to their lives can be accorded. We know of instances in which the bravest and most experienced of these employees are beginning to be transferred to this country.

7. We conceive it to be our duty as American citizens to say to you plainly that unless the United States can see its way clear immediately to protect us in the possession of our oil properties and to protect our employees against assassination and cruel treatment we consider it inevitable that oil importations from Mexico will quickly fall off and soon [there will be?] utter paralysis as to our operations there. We advise you of this situation so that our Government, if it can, may act in the exercise of its plain right to protect the lives and property of its citizens in Mexico, which act will result in the procuring of these needed oil supplies. Every producer with whom we have talked has expressed himself as being anxious to act as our Government wishes him to act. In our opinion this is the wish of every one of these producers. We are not appealing to the Government to advise us how to act in the protection of our own interests but we do appeal to it to tell us what it desires us to do in the best interests of the Government itself. We think we have the right to ask this. You may make any use of this telegram you see proper.

F. C. PROCTOR	A. L. BEATTY	HAROLD WALKER
J. W. ZEVELY	F. N. WATRISS	A. E. WATTS

File No. 812.512/2064

The Consul at Tampico (Dawson) to the Secretary of State

[Telegram]

TAMPICO, August 7, 1918, 6 p. m.

With reference to petroleum tax law just republished, oil companies have been warned that persons highly connected with the Mexican Government are prepared to profit from any refusal or failure to comply with its provisions on the ground of their unconstitutionality, by promptly denouncing through third parties valuable oil properties not manifested by present holders within time allowed.

DAWSON

File No. 812.512/2071

The Ambassador in Mexico (Fletcher) to the Secretary of State

No. 1283

MEXICO, August 7, 1918.

SIR: In continuation of my despatch No. 1273 of July 31 last and confirming my various telegrams of the past week, I have the honor to enclose herewith full text and translation of the new petroleum

decree dated the 31st of July and published unofficially on the 5th instant.

For the convenience of the Department in making a comparison of the petroleum decrees, I enclose a translation of the same in parallel columns.¹

This decree was published in the *Diario Oficial* on the 6th instant and the Spanish text herewith enclosed is official. Inasmuch as the new decree purports in the enacting clause to reform the decrees of February 19 and May 18, and by the second transitory article the said decrees, as well as all rulings which may conflict with the provisions of the present law, are annulled, I beg to inquire whether the Department desires me to renew formally the protest contained in my note of April 2.

Substantially, the decree of February 19 last has not been changed and the underlying principle against which we have formally protested has not been departed from in the slightest, but unless we renew our formal protest it might possibly be contended at some future time by the Mexican Government that the new decree annulled the decree of February 19, and that the present decree was never protested against. In case the Department deems it well to renew the protest—and in my opinion this should be done unless all the American interests involved decide to abandon their rights and titles—I have the honor to request the Department's telegraphic instructions as to the form in which it wishes the protest to be made.

The British Chargé d'Affaires informs me that he is also bringing this question to the attention of his Government by telegraph.

In order to complete the Department's records, I enclose herewith copy of the note of Mr. Cummins, then in charge of British interests in Mexico, dated April 30, formally protesting against the petroleum decree of February 19.

Neither the British note nor my note of April 2 has yet been acknowledged by the Mexican Foreign Office.

The Government newspapers to-day state that the Mexican Government made certain modifications as a result of the conferences with Messrs. Garfield and Rhoades, and that some of these modifications are embodied in the new decree, and that the others mentioned in the memorandum forwarded in my despatch No. 1273 of July 31 will be published this week in the form of a decree, and that said modifications are independent of the result of the Texas conference of oil men, as they are the only ones the Executive has determined to grant.

In my opinion, the slight amendments and modifications made by the decree enclosed and promised in the memorandum forwarded a week ago, have not materially improved the situation of our nationals, and as far as the principle involved is concerned, no change whatever has been made.

Awaiting your instructions as to the renewal of the protest,
I have [etc.]

HENRY P. FLETCHER

¹ Not printed.

[Enclosure 1—Translation]

The petroleum decree of July 31, 1918, amending the decrees of February 19 and May 18, relative to the tax on oil lands and oil contracts¹

I, Venustiano Carranza, Constitutional President of the United Mexican States, to the inhabitants thereof make known:

That in use of the extraordinary powers vested in me by the Congress of the Union, with reference to Treasury matters, I have seen fit to reform the decrees of February 19 and May 18 this year as follows:

ART. 1. A tax is established on oil lands and on oil contracts executed prior to May 1, 1917, having for their object the leasing of lands for the exploitation of carbides of hydrogen or permission to do so under an onerous title. Likewise all contracts originating from those hereinbefore mentioned shall be taxed.

ART. 2. The annual rentals stipulated in the contracts cited in Article 1 shall be taxed in the following proportions:

- A. Those of five pesos per annum per hectare or less, with 10 per cent of their value;
- B. Those of more than five pesos and up to ten pesos per hectare per annum, with 10 per cent on the first five pesos and 20 per cent on the remainder;
- C. Those greater than ten pesos per annum per hectare, with 10 per cent on the first five pesos, 20 per cent on the next five pesos, and 50 per cent on the excess over the first ten pesos.

ART. 3. All royalties stipulated in oil contracts are taxed with 50 per cent of the amount thereof.

ART. 4. Properties operated by the owners of the surface are taxed with an annual rental of five pesos per hectare, plus a royalty tax of 5 per cent of the production.

ART. 5. For leased lands on which rental is not being paid, even though it is so stipulated in the contract covering, payment shall be made of five pesos per year per hectare; and for those on which a royalty is not now being paid, payment shall be made of 5 per cent of the production.

ART. 6. The Department of the Treasury and Public Credit shall determine in each case whether the royalty shall be paid in kind or in cash, and shall communicate to the taxpayers within the first fifteen days of each bimonthly term the form of payment corresponding to the bimonthly term ending that fortnight. When in contracts made prior to May 1, 1917, payment of the royalty is stipulated as payable in metallic currency, the corresponding tax shall be collectible likewise in metallic currency.

ART. 7. Those subject to the taxes established by this law, shall present at the local stamp offices during the first fortnight of each bimonthly term, a statement along the lines of the model thereof authorized by the general stamp office.

ART. 8. Payments in kind, established by this law, shall be delivered at any of the storage stations belonging to the respective operator to be indicated by the Department of the Treasury and Public Credit, without prejudice to the interests of the operator.

ART. 9. Cash taxes established by this law shall be paid to the local stamp office having jurisdiction over the land affected, and in case the land comes within various jurisdictions, to the office which may be designated by the Department of the Treasury and Public Credit. This payment shall be made in advance within the first fortnight of each bimonthly term.

ART. 10. The payments mentioned in the preceding article shall be made by means of special stamps bearing the words "Oil Revenue."

ART. 11. Royalty values for the payment of the corresponding tax shall be calculated on the basis of the values fixed by the Department of the Treasury and Public Credit in the respective bimonthly tariffs, and deducting the pipeline transportation cost from the place of production to the shipping port, in accordance with the tariffs authorized by the Department of Industry, Commerce and Labor for the pipe lines in that region.

ART. 12. The taxes established by this law shall be paid by the operators or the last cessionaires of exploitation rights. In making their payments to the lessors or former cessionaires, they shall deduct the corresponding taxes

¹ *El Universal*, August 5, 1918,

from the rentals and royalties stipulated in their contracts. Intermediary cessionaires, in making their payments to former cessionaires or owners, shall deduct from the rentals and royalties stipulated in their respective contracts, the amount of the taxes corresponding thereto.

ART. 13. The proceeds of the taxes established by this law, shall be distributed as follows:

60 per cent to the Federal Government;

20 per cent to the State within the boundaries of which the land may be located;

20 per cent to the municipality under whose jurisdiction the land in question may be located.

When lands come under various jurisdictions, the Department of the Treasury and Public Credit shall distribute the rentals established by this law, together with the rental taxes, in proportion to the surface land coming within each jurisdiction, and royalties on the basis of the location of wells and their production.

ART. 14. Surface owners who may not have leased their land or in any way contracted for the exploitation of the natural carbides of hydrogen, and the last cessionaires of the right of exploitation under the contracts mentioned in Article 1 of this law, shall present a manifestation [statement] within the first fortnight of the month of August this year to the Department of Industry, Commerce and Labor, within the terms prescribed in Articles 16 and 17 following. After the period mentioned claims which may not have been covered by manifestation in the form prescribed, shall be considered as free; and the denunciation and exploitation of the same shall be governed by rulings to be issued, which shall determine who shall be subject to the taxes thereon.

ART. 15. Should the last cessionaires fail to present their manifestations within the period specified, they shall be considered as having lost all rights, and the former cessionaires and owners of the property leased, may present manifestations within the two months following the date thereof, in order that the Department of Industry, Commerce and Labor may give preference among those presenting manifestations to the last cessionaire to the right of exploitation. This preference shall be made known within the first fortnight of the month of November this year.

ART. 16. The manifestations of owners shall be submitted together with titles to the property, or in lieu thereof, true copies of the same. The statements in question shall contain the following data:

- I. Name, age, nationality, and residence of declarant;
- II. Location of the land covered, stating the name, number of the lot, name of the *hacienda*, municipality, county or district, and State;
- III. Area of the land;
- IV. Date of purchase;
- V. Seller;
- VI. Purchase price;
- VII. A plan, or failing this, a complete description of the land, stating the boundaries and the names of surrounding lands and of the owners thereof, with all other descriptive data.

ART. 17. The manifestations submitted by cessionaires shall be accompanied by the concessions in their favor or by true copies thereof. The said statement shall contain the following data:

- I. Name, age, nationality, and residence of declarant;
- II. Location of the land manifested, stating the name, number of the lot, *hacienda*, municipality, county or district, and State;
- III. Area of the land;
- IV. Name of the owner;
- V. Date leased by the owner;
- VI. Date of the declarant's lease;
- VII. Rental paid by declarant;
- VIII. Percentage or royalty paid by declarant;
- IX. Duration of contract;
- X. Plan, or failing this, a complete description of the land, stating the boundaries and the names of surrounding lands and of the owners thereof, with all other descriptive data.

ART. 18. The manifestations of owners or cessionaires which do not conform to the provisions of Articles 16 and 17 shall be thrown out.

ART. 19. Violations of the provisions of this law are punishable by fines of from 50 to 1,000 pesos, according to the gravity of the case; without prejudice to its being turned over to the courts if criminal action is necessary.

ART. 20. This law shall become effective from the date of its promulgation.

TRANSITORY ARTICLES

1. Manifestations already presented to the Department of Industry, Commerce and Labor under the terms of the decrees of February 19 and May 18 this year are valid.

2. The decrees mentioned in the preceding article are annulled, as well as all rulings which may conflict with the provisions of this law.

I, therefore, order that this be printed, published, distributed, and given due compliance.

Given at the National Palace of the Executive Power of the Union, this thirty-first day of July, nineteen hundred and eighteen.

V. CARRANZA [RUBRIC]

[Enclosure 2]

The British Chargé (Cummins) to the Mexican Secretary of State for Foreign Affairs (Aguilar)

No. 34

MEXICO, April 30, 1918.

MONSIEUR LE MINISTRE: Acting upon instructions I have received from His Majesty's Principal Secretary of State for Foreign Affairs I have the honour to inform your excellency that the provisions of the petroleum decree of February the 19th last, imposing new taxation on petroleum-yielding lands and petroleum contracts, have been carefully examined by His Majesty's Government.

His Majesty's Government consider that this decree, especially as regards the provisions contained in Article 3, Article 4, Article 11, Article 12, Article 13, Article 14 and Article 16, is of a confiscatory and arbitrary nature, that it would impose a crushing burden on the oil industry in Mexico and that its effect would be to levy a higher rate of taxation on the oil industry in Mexico than now exists in any other country in the world.

The provisions of the decree are, in the opinion of His Majesty's Government, entirely at variance with the laws and valid contracts under which heavy investments of British capital have been made in the oil lands and the oil industry of Mexico.

His Majesty's Government observe that payments of taxation in kind referred to in the decree might effect a monopoly of the facilities now existing for the storage of oil and that it would be contrary to the meaning of the Mexican Constitution and to principles of justice to separate surface rights from subsoil rights now appertaining to those owners of land who have vested interests in the petroleum-bearing area.

For these reasons His Majesty's Government formally and strongly protest against the enforcement of the provisions of the decree in question, in so far as British subjects and interests are concerned, and hold the Mexican Government responsible for all loss and damage that may accrue to British subjects and interests in consequence of the decree.

I avail [etc.]

[H. A. CUNARD CUMMINS]

File No. 812.512/2058a

The Secretary of State to the Ambassador in Mexico (Fletcher)

[Telegram]

WASHINGTON, August 12, 1918, 3 p. m.

1357. Please seek an immediate interview with President Carranza and present the following request for an extension. As you can understand, immediate action is necessary.

The decree of the 19th of February 1918, which was the subject of the note of April 2, 1918, addressed to Your Excellency,

has been again brought to the attention of my Government, together with the decree of the 18th of May 1918, published the 21st of May, the decree of the 8th of July 1918, published the 13th of July and certain fiscal orders, all having reference to the disposition and taxation of oil lands and oil contracts. My Government has been advised of the results of the conferences that have taken place between representatives of Your Excellency and representatives of certain American citizens and corporations, whose properties and rights are affected by the above-mentioned decrees and fiscal orders. It is further advised that Your Excellency has issued two new decrees, the first dated the 31st of July 1918, published the 15th of August, purporting to modify or repeal the decrees of the 19th of February 1918, and the 18th of May 1918; the second, date unknown, published the 10th of August, purporting to modify or repeal the decree of the 8th of July 1918. As the last two mentioned decrees have been published within the past week my Government has not had opportunity to examine their provisions and consider their effect, if carried into operation, upon American interests and property rights in Mexico.

I am instructed to state to Your Excellency that my Government, in view of the fact that an answer to my note of the 2d of April 1918 has not been received, is constrained to call Your Excellency's attention to that note and to repeat the grave apprehension which my Government entertains as to the possible effect of these various decrees upon the vested rights of American citizens in oil properties in Mexico; and to the necessity which may arise to impel the United States to protect the property of its citizens in Mexico, divested or injuriously affected by the said decrees.

My Government understands that the 15th of August 1918 is the date upon which these decrees will go into effect, and I am instructed earnestly to request Your Excellency to postpone that date, and suspend the operation of all said decrees for and during such a period as will afford my Government ample opportunity to carefully examine and consider their provisions, purpose and results in so far as they affect the rights and properties of American citizens.

Telegraph immediately result of interview. Garfield says Rhoades will arrive in Mexico City on Tuesday evening.

LANSING

File No. 812.512/2094e

The Secretary of State to the Ambassador in Mexico (Fletcher)

[Telegram]

WASHINGTON, August 14, 1918, 10 a. m.

1365. From Garfield:

Notify Garfield's office and attorneys of all companies except Texas Company, their manifestations are not to be filed. They should apply for *amparo* in Mexico City and State of Vera Cruz filing it after August 15 and before August 20.

They should ask for suspension for reason already known. Suggest they add that power to issue regulations under Section 1, Article 89, Constitution supposes preexisting law and as there is not such a law of Congress legal regulations could not be issued. Notify them all American companies except Texas unanimously refuse to file returns.

LANSING

File No. 812.512/2090

The Ambassador in Mexico (Fletcher) to the Secretary of State

No. 1306

MEXICO, August 14, 1918.

SIR: In confirmation of my telegram No. 1377 dated yesterday,¹ I have the honor to enclose text and translation of the reply of the Mexican Government to the protest of the British Government dated April 30 last (copy of which was forwarded to the Department in my despatch No. 1283 of the 7th instant) in regard to the petroleum decree of February 19 last. The reply was published in all the local papers yesterday morning and is dated August 12 last and addressed to the Minister for Foreign Affairs of Great Britain.

I have [etc.]

HENRY P. FLETCHER

[Enclosure]

*The Mexican Secretary of State for Foreign Affairs (Aguilar) to the British Secretary of State for Foreign Affairs (Balfour)*²

MEXICO, August 12, 1918.

MR. MINISTER: I have the honor to reply to note No. 34 of April 30 this year, which the Chargé des Archives of the British Legation in Mexico delivered to this Department, in which His Majesty's Government protests energetically against the enforcement of the decree issued by the Mexican Government on February 19 this year, in so far as British subjects and interests are concerned, and states that it will hold the said Government responsible for all the loss and damage which may accrue to British subjects and interests in consequence of the decree mentioned.

This decree establishes a tax on petroleum lands and petroleum leases, merit-ing the qualification of arbitrary and confiscatory because it imposes a tax which, in its opinion, is a crushing burden on the oil industry, and constitutes a higher rate of taxation on the oil industry than that which exists in any other country in the world.

Without expressing an opinion as to the accuracy or inaccuracy of the judgment emitted with regard to the taxation established, the Mexican Government cannot do otherwise than express the surprise which the note and protest of His Majesty's Government has occasioned it, for the reason that in issuing the said decree it did so in the legitimate exercise of its sovereignty as the Government of an independent nation, and the only remedy is the recourse provided by Mexican laws in cases where taxes decreed by the public power are considered to be burdensome or confiscatory.

The surprise of the Mexican Government is legitimate, as would be that of the Government of any other independent nation—including that of His Britannic Majesty—should it find that its acts with respect to its interior affairs, such as the right to impose taxation, were the subject of diplomatic protests by powers whose subjects were affected by such taxation. So much so is this the case that it is certain His Britannic Majesty's Government would not permit to be made any diplomatic reclamations against the necessarily high taxation which the war has forced it to decree throughout its dominions and which weigh equally not only upon English citizens and the subjects of the countries conquered or under its domination in any form, but upon all foreigners as well.

¹ Not printed.

² Translation of the text which appeared in *El Universal* of August 13, 1918.

By virtue of the liberty of fiscal legislation which Mexico enjoys, it is opportune to declare that the Mexican Government does not recognize the right of any foreign country to protest against acts of that nature which are the result of the exercise of its interior sovereignty, and, consequently, cannot accept the responsibilities which it is the intention to place upon it because of supposed injury resulting from its legislation. This decision is founded upon the equality which the Mexican Government desires should exist as between foreigners and Mexicans in respect of taxation decreed within its own territory, as it considers that in granting the preferences to which diplomatic intervention tends it would fail in the performance of its strictest duties. The recourse to which not only nationals but foreigners should turn, to protect themselves against a tax which they may consider confiscatory, is to submit the case to the Mexican courts, which are ready at all times to administer justice by applying the laws in force, which justly consecrate as an individual guaranty the prohibition to confiscate property. Furthermore, it is generally admitted that diplomatic representations should be made only after ordinary measures have been found inadequate and as a last resort.

If the provisions of the decree, in the opinion of His Britannic Majesty's Government, are in open conflict with the laws and contracts under which investments of British capital have been made in oil lands in Mexico, this can not reasonably constitute an obstacle for the free development of the public wealth of Mexico; and such development may exact, as in this case, certain changes in land legislation beneficial to the country, especially since the modern conception of private property considers it rather as a social function closely united with the prosperity of the State.

The firm purpose of the Mexican Government is to respect foreign interests, giving them guarantees and facilitating their development; it believes that it can carry out this program simply by the operation of the laws and institutions of the Republic through their integral and equal application; and considering that this is the best guarantee it can give, it cannot accept the protest of His Britannic Majesty's Government, the effect of which would be to place British subjects in a more favorable situation than Mexicans.

In the hope that the cultured intelligence of His Britannic Majesty's Government will enable it to reach a proper understanding of the decree which gave rise to the note under reply, I have the honor, Mr. Minister, to renew to your excellency the assurance of my highest and most distinguished consideration.

CANDIDO AGUILAR

File No. 812.512/2089

The Ambassador in Mexico (Fletcher) to the Secretary of State

No. 1312

MEXICO, August 14, 1918.

SIR: Continuing my despatch No. 1283 of August 7, 1918,¹ on the subject of the petroleum decrees recently issued by the Mexican Government and confirming my recent telegrams, I have the honor to report the developments of the situation in the past week, as follows:

On August 13 the Foreign Office made public its reply to the note of the British Government dated April 30. The substance of this reply was telegraphed immediately to the Department and the text and translation will be found in my despatch No. 1306 of August 14.

Your telegram No. 1237 [1357] of August 12, 3 p. m., instructing me to seek an immediate interview with President Carranza and request a further postponement of the operation of the recent petroleum decrees, reached me yesterday morning.

I put this request in writing—copy enclosed²—of which I also made a translation and arranged for an interview with President Carranza at 6 o'clock yesterday afternoon. The interview lasted half

¹ *Ante*, p. 750.

² Enclosure not printed. See telegram No. 1357, *ante*, p. 754.

an hour and the principal points and result thereof were immediately telegraphed to the Department.

On opening the conversation, I explained to the President that, while the attorneys representing the various American citizens interested in the oil industry in Mexico had reported the result of their conferences with the representatives of the Mexican Government to their principals and more recently to the Department of State, nevertheless, my Government had not had sufficient time to study the various decrees and to determine the effect which they would have upon American interests and property rights in Mexico, and that I had been instructed to present to him a request for postponement of the operation of the said decrees and handed to him the note above referred to in translation. The President read it carefully and replied that as a result of the conferences held between Messrs. Garfield and Rhoades and Messrs. Pani and Nieto, the Mexican Government had made a number of modifications in the petroleum decrees favorable to the companies concerned; that the decrees were merely fiscal; that it was the province of the Congress, which would meet on the first of September, to pass the laws which would put Article 27 into effect, and that he believed such legislation, which would originate with him or with some member of the Congress, would be one of the first subjects to be taken up by the Legislature; that he had gone as far as he could in the matter, and could not further postpone the operation of the petroleum decrees. He referred, with evident displeasure, to that part of the request which mentioned the necessity which may arise to impel the United States to protect the property of its citizens in Mexico, and said that this was merely fiscal legislation, and, as he had pointed out in his reply to the British Government, Mexico in the exercise of its sovereign rights could not admit interference of foreign governments in the matter, and said that if this meant war or intervention, he was prepared to confront this alternative however regrettable. I replied that I saw no immediate danger of matters coming to such a pass and referred to the peaceful means which, in my opinion, should and would be exhausted before this alternative need be met. He agreed in this and said that the parties interested should appeal to the courts and that if and after the ordinary legal remedies should have been exhausted they still should feel aggrieved, there remained always the diplomatic channel through which to attempt settlement. Following that line of thought, I told him that I believed it would have a reassuring effect if I could say this to the Department and that every legal and peaceful means would be exhausted to reach a settlement of the juridical question involved, and I referred to the existing treaties between Mexico and the United States in this connection. The President replied that he was not a partisan of force and stated his willingness to adopt peaceful means of settlement.

Throughout the conversation the President stressed the point that the decrees in question constitute merely fiscal legislation and that he had not attempted in the decrees to put into practice and effect the provisions of the Constitution relating to subsoil ownership, and that the Congress only had this power and would decide the conflict with reference to subsoil ownership as between the nation

and private individuals. I made it clear, however, that in my opinion the decrees were based on Article 27 of the Constitution and that individual owners feared that compliance with the provisions of the said decrees might prejudice their legitimately acquired rights. He then spoke of the filing of manifestations and stated that in his opinion they should be filed; that they could be filed under protest if the companies so desired and without prejudice to their rights.

In conclusion I referred to the delicacy of the situation and to the very short time which would elapse before the decrees were put into effect, and expressed the hope that no precipitate action would be taken by the Mexican Government which would interfere with the peaceful, orderly and judicial settlement of the matters in dispute, and my personal hope and belief that with patience and good will on both sides a satisfactory settlement would be reached. The President replied in the same spirit. The interview was extremely cordial throughout. The only time in which the President showed the slightest annoyance was in connection with what he considered a threat of the United States Government to protect its citizens in Mexico.

This morning there was published in all the local papers a new petroleum decree dated the 12th, providing that petroleum lands now under exploitation or acquired after survey would not be open to denunciation after the 15th instant, even though not manifested as prescribed by the petroleum decrees, and that such non-manifested lands would pay an annual rental of five pesos per hectare and a royalty of 5 per cent on production.

I am informed that this new decree was prepared last night in the Palace and antedated. I telegraphed this morning a translation of this last decree in full, as I thought the Department and parties interested would desire, in view of the fact that there remain only two days in which manifestations may be filed, to have the complete text.

Up to the present very few of the companies and individuals interested have filed the manifestations called for by the decrees.

I might add that, in the course of my interview with the President yesterday, he said that he was preparing a reply to my note of April 2, more or less along the lines of his reply to the British Government.

I have [etc.]

HENRY P. FLETCHER

[Enclosure 1—Translation]

Decree of August 8, 1918, relative to the denunciation of petroleum claims, amending Article 14 of the decree of February 19, as amended on July 31¹

I, Venustiano Carranza, Constitutional President of the United Mexican States, to the inhabitants thereof make known:

That I have seen fit to amend as follows the regulations of Article 14 of the decree of February 19, 1918, amended the 31st of July:

ARTICLE 1. Petroleum claims on free ground may be denounced as from AUGUST 16 this year.

ART. 2. A petroleum claim is understood to be of unlimited depth, bounded laterally by the vertical planes which pass along the boundaries of a continuous surface area of not less than four hectares and intended for the exploitation of oil.

¹ *Diario Oficial*, August 12, 1918.

ART. 3. By exploitation of oil is meant the extraction, collection, or utilization of the following substances:

- I. Crude oil found in pools, springs, and natural deposits.
- II. Gaseous hydrocarbides found in the subsoil or escaping to the surface.
- III. Natural deposits of ozokerita and asphaltum.
- IV. Such hydrocarbide mixtures of the different groups as owe their origin to natural agents.

ART. 4. Land covered by title for the exploitation of oil, or on which a denunciation is pending, shall not be considered free.

ART. 5. Land shall not be considered free which may have been covered by manifestation submitted by the owner thereof to the Department of Industry, Commerce and Labor, in accordance with Articles 14 and 16 and first transitory article of the decree of July 31 this year; but that land shall be free which may have been covered by manifestation but not denounced by him who presents such manifestation or by the person to whom he may cede his right of preference, within three months from the 15th instant.

ART. 6. Land shall not be considered free which may have been leased for oil exploitation and covered by manifestation to the Department of Industry, Commerce and Labor, in accordance with Articles 14, 17, and first transitory article of the decree of July 31 this year; but that land shall be free which may have been covered by manifestation but not denounced by him who presents the manifestation or by the person to whom he may cede his right of preference, within three months from the 15th instant.

ART. 7. Land shall not be considered free which may have been leased for oil exploitation and covered by manifestation to the Department of Industry, Commerce and Labor, in accordance with Articles 15 and 17 of the decree of July 31 this year; but that land shall be free which may have been covered by manifestation but not denounced by him who presents such manifestation under the preference provided for in Article 15 of the said decree, or by the person to whom he cedes his right of preference, within two months following the declaration of preference prescribed in the same article of that decree.

Cessions of the right of preference referred to in this and the two preceding articles shall be by public instrument.

ART. 8. Likewise, for the purposes of this decree, and without prejudice to the provisions of Article 27 of the Constitution, land shall not be considered free which is covered by a concession contract entered into by the Government with a person or company for oil exploitation.

ART. 9. Public lands, laylands, and national lands, tribal lands, and undivided commons, may not be denounced.

ART. 10. A denunciation shall cover one oil claim only.

ART. 11. A person desiring a petroleum claim shall present in triplicate to the appropriate agency of the Department of Industry, Commerce and Labor, petroleum branch, a denunciation showing his name, age, profession, residence and nationality, as well as the location, area, boundaries and other data which would serve to identify the claim.

ART. 12. If the denouncee be a foreigner, he shall attach to his petition a certificate from the Department for Foreign Affairs, showing that he has complied with the requirements of the Federal Constitution.

ART. 13. If the denouncee be a foreign company which may previously have submitted a manifestation to cover lands it owns or its cessionary exploitation rights, such denunciation shall be accepted, and the procedure relating thereto shall be continued; but title shall be issued only to a person or to a Mexican company organized under the laws of the country and to whom or to which the company making the denunciation may cede its rights.

ART. 14. The petitioner shall submit with his denunciation, a certificate issued by the revenue stamp office stating that he has deposited the value of the stamps to be adhered to the title, on the basis of the area of the claim.

ART. 15. The agent of the petroleum branch shall receive the denunciation, entering the same in his register and noting therein and on the original and copies of the denunciation the date and hour of presentation. The denouncee may demand that these notations be made in his presence. If in the judgment of the agent the denunciation is not sufficiently clear, he shall request the denouncee to make the necessary explanations, and shall make note of them on the original and copies and in his register; but the absence of explanatory data shall not be cause for not registering the denunciation. The duplicate, with proper notations thereon, shall be returned to the person who presented it.

ART. 16. Within three days of the presentation of a denouncement, and in view of the explanations made, the agent shall decide whether or not it is to be accepted. If accepted, he shall proceed to prepare the necessary documents; if not, he shall set forth in writing the reason for his adverse decision, which shall be subject to reconsideration by the Department of Industry, Commerce and Labor upon request of the denouncer, presented to the said agent upon being notified of the non-acceptance of the denouncement, or within three days thereafter.

ART. 17. When two or more denouncements presented simultaneously and covering the same land have been declared acceptable, chance shall decide which denouncement is to be given preference, unless the interested parties should reach an agreement among themselves as to such preference.

ART. 18. When various denouncements are presented simultaneously covering different claims but containing a portion common to all, a drawing shall be made in which all the denouncements presented shall take a part. If the denouncement favored by the drawing includes the others presented, this fact alone shall suffice to cancel the remaining denouncements which may have been included in the drawing. But if the favored denouncement covers a part only of the land denounced, the remainder thereof shall be the subject of a new drawing among all the denouncers excepting the one favored by the first; and if after the second drawing there should yet remain a part of the land under discussion, the same procedure shall be followed in one or more other drawings as required. The drawings shall be held at intervals of three working days in order that those interested may be present at each one of them, with their denouncements duly made out. Those who may not be present at drawings to which they may be summoned, shall by this fact lose their priority rights gained by their participation in the first drawing.

ART. 19. Once an agent has accepted a denouncement, he shall exhibit same on his bulletin board during one month, and shall cause same to be inserted three times during the same period, in the *Diario Oficial*, and in two other publications chosen from among those of greatest circulation in the locality. The interested party shall arrange for these insertions for his own account.

ART. 20. The following are causes upon which objections to a denouncement may be based, interrupting the legal course thereof:

- I. The total or partial invasion of a titled petroleum claim whose title has not been declared canceled;
- II. A previous denouncement legally presented, covering part or all of the claim denounced, and which may be pending decision;
- III. Not having terminated, at the time a denouncement is made, the period during which this law grants preference to a person or company regarding the claim in question or a part thereof.

ART. 21. Objections to a denouncement based upon any of the causes established by the preceding article, must be filed with the petroleum agency during a period of sixty days from the date on which the denouncement is first placed on the bulletin board of the agency.

ART. 22. The opposer shall present, together with his objections, a certificate from the principal revenue stamp office, wherein it is stated that he has deposited therein an amount equal to one year's rental on the claim in question, in accordance with Articles 47 and 48 of this law. Unless the said certificate is presented, the objection will not be accepted.

ART. 23. The objection having been filed, the interested parties shall be cited to appear at a meeting, following the manner of procedure established by the regulations of the mining law in effect. Those who fail to appear shall be advised at once that they may have recourse to either administrative or judicial channels to adjust their differences.

ART. 24. Should the interested parties not immediately elect to handle the matter through administrative channels, the course of denouncement shall be interrupted, and the documents thereof shall, within forty-eight hours, be passed to the judicial authorities, for the substantiation of the corresponding suit at law. The opposer may only base his opposition upon the causes which he has alleged and which are expressly set forth in the administrative documents, just as they were sent to the judicial authorities.

ART. 25. In case the interested parties decide to handle the matter through administrative channels, the denouncement documents will continue their course, to the end that when convenient the Department of Industry, Com-

merce and Labor, having heard both the denouncer and the opposer, may render a final decision.

ART. 26. Should the interested parties have elected to handle the matter through administrative channels, they may not have recourse to judicial channels, but if they have chosen the latter, they may, prior to a court decision having been rendered, submit the matter for decision to the Department of Industry, Commerce and Labor.

ART. 27. Any other objection, founded on causes distinct from those expressed in Article 20, should be filed with the agency, but the latter will not in that case suspend the course of the denouncement; the Department of Industry, Commerce and Labor, when the documents are passed thereto for revision, will then decide whether or not such objection should be given consideration. If the former, the objection will be substantiated and decided, observing the form of procedure set forth in Articles 23 to 26. If the Department decides not to take into account the objection filed, it shall proceed as though no objection had been made, the opposer reserving his due rights.

ART. 28. The Department of Industry, Commerce and Labor may take under advisement objections to the denouncement presented thereto during the course of the revision of the documents, providing that the opposer furnishes proof of not having had recourse to the petroleum agency for causes beyond his control.

ART. 29. A denouncer of a petroleum claim shall be declared as having forfeited his rights should he fail to make the insertions required by Article 19; should he fail to furnish data requested within the period fixed therefor, in order to proceed with the investigation of the denouncement; and, should he fail to appear at the meeting cited if objection or opposition to the denouncement should be filed. Such denouncer shall forfeit the deposit referred to in Article 12.

ART. 30. An opposer who fails to appear at the meeting cited shall be considered as having forfeited his right to object to the denouncement, except in case such failure to appear is due to causes beyond his control.

ART. 31. An opposer who forfeits his rights, or one whose opposition proves unfounded, shall forfeit the deposit established by Article 22, which shall be applied to the payment of one year's rental on the claim, counting from the date on which denouncement was presented.

ART. 32. Should a final decision thereon not be rendered within one year after the filing of an objection to a denouncement, the denouncer and the opposer shall each deposit an amount equal to one year's rental, in the corresponding principal revenue stamp office, the same rule applying for each further year that the final decision may be delayed.

The deposits made by the party in whose favor the final decision is rendered, shall be applied to the payment of rentals on the claim, and those made by the party losing the decision shall become a part of the national revenues, the first party reserving the right to demand indemnity from the second party, corresponding to the matter in question.

ART. 33. The Department of Industry, Commerce and Labor may pardon the denouncer's delays when the latter proves, within the period of the proceedings or during the revision of the file on the case, that his delays were due to fortuitous circumstances or *force majeure*.

ART. 34. The period of sixty days having elapsed, without any objection having been filed which furnishes cause for the suspension of the administrative proceedings, the petroleum agent must send to the Department of Industry, Commerce and Labor, copies of the denouncement documents showing the status thereof.

ART. 35. The titles covering petroleum claims shall be issued through the Department of Industry, Commerce and Labor, after the petroleum bureau has revised the agency documents. Such titles confer possession of the respective claims, without the necessity of any other formality.

ART. 36. Excepting in the cases provided for in Article 13, titles shall be issued to the party presenting the denouncement, without prejudice to the rights of a third party. In order that titles may be issued in favor of persons other than those making the denouncements, it shall be necessary to furnish proof in the form of a public instrument to the effect that the rights of the denouncer have been transferred to the other party. The interested party shall furnish proof of payment of rental corresponding to the claim before title can be delivered to him.

ART. 37. In the cases of community lands, which may not have been legally contracted for oil exploitation, only the coowners may denounce oil claims, and the denunciation proceedings shall be discontinued until all the coowners or their representatives have appeared before the Secretary of Industry, Commerce and Labor, who shall issue calls for such meetings with due anticipation, to furnish express and proven manifestations of their individual rights, and, an agreement having been reached, a common title to the oil claim covering the subsoil of the land *pro indiviso* shall be issued. In such titles the representation of each coowner shall be expressed. The summons by means of which the coowners are cited to appear shall be placed on the bulletin board of the petroleum agency during a period of sixty days; it shall be published three times during the same period in the *Diario Oficial* and in the two newspapers of the largest circulation in the locality.

The Department of Industry, Commerce and Labor has the power to appoint a commission which shall have charge of handling before the proper authority, the issuance of the titles of ownership to the coowners.

ART. 38. After ninety days from the date of the summons referred to in the preceding article, if the coowners of the community under consideration do not present themselves, those not doing so shall be considered as having lost their rights and title and the corresponding title shall be issued, after compliance with the provisions of this law, to the coowners who may be present. When those present may not have requested a petroleum claim title to the entire community land, the same shall be issued covering the portion requested, and the remainder shall be declared free ground.

ART. 39. The concessionaire of a petroleum claim may at any time petition its reduction. The petition shall be presented to the appropriate petroleum agency, together with his title and a plan of the claim as reduced.

The new title shall cancel the old and shall not be subject to the title stamp tax, but the concessionaire shall be obligated to stake out the reduced claim within the period of time named by the Department of Industry, Commerce and Labor. When the reduction has been granted, the remainder of the land shall be declared free.

ART. 40. The concessionaire of an oil claim may extract therefrom all the substances referred to in Article 3, without other restriction than that of not invading with his extraction operations neighboring claims, and that of complying with the provisions of this law and such regulations as may be issued covering exploitation.

ART. 41. The exploiters of an oil claim may occupy within the limits of the claim, and with due authority from the Department of Industry, Commerce and Labor, surface space necessary for extraction operations and the immediate storage of the products extracted, paying to the party who may be entitled to the same, the proper indemnity, but without permitting the procedure in such cases to retard the course of the work.

ART. 42. The exploiters of a petroleum claim may acquire the right of passage and pipe-line right of way, upon due authority from the Department of Industry, Commerce and Labor, and may install such pipe lines and pumping stations as operations may require, paying to the party who may be entitled to the same, the proper indemnity, but without permitting the procedure in such cases to retard the course of the work.

ART. 43. The exploiters of an oil claim shall have the right to establish storage stations and refineries, with the approval of the Department of Industry, Commerce and Labor, and with the consent of the owners of the lands they propose to occupy. In case the consent of the owners can not be obtained, the areas necessary may be expropriated.

ART. 44. The exploiters of petroleum claims shall have the right to construct wharves, loading stations and submarine pipe lines, with the approval of the Department of Industry, Commerce and Labor, in conformity with the dispositions which the Departments of the Treasury and Public Credit and of Communications and Public Works dictate on the subject.

ART. 45. On petroleum claims, only the respective concessionaires shall have the right to construct storage stations and refineries.

ART. 46. The concessionaire of a claim may use the surface waters necessary to his operations, in accordance with the common laws covering such matters. He may also use underground waters for the same purpose, upon authorization from the Department of Industry, Commerce and Labor, and upon payment of the corresponding indemnity to whomever may be entitled thereto.

ART. 47. The concessionaire of a petroleum claim on leased land shall pay the tax established in Articles 2, 3, and 5 of the decree of July 31 of this year, making where necessary the adjustment referred to in Article 12 of the said decree.

ART. 48. The concessionaire of an oil claim on unleased land, shall pay an annual rental of five pesos per hectare and a royalty of 5 per cent of the production.

ART. 49. Taxes shall become due from the date of the denunciation, and shall be payable bimonthly in advance, and such payments should be made during the first fortnight of each bimonthly term.

ART. 50. During the period of one year from the date of issuance of the title covering an oil claim, the interested party must erect monuments at the vertexes and other principal boundary points, and such intermediate monuments as may be necessary so that each may be visible from the preceding one; and must present in duplicate to the petroleum bureau a map of the land so marked. This map (or plan) must comply with the requisites fixed by the Department of Industry, Commerce and Labor, and the ratification or correction of the title shall be made in accordance therewith.

If the concessionaire does not comply with this obligation, the Department of Industry, Commerce and Labor shall impose upon him a fine varying between 50 and 1,000 pesos depending on the importance of the claim and the frequency of the offenses, and may have the work done for account of the party interested.

ART. 51. Within the period of two years counted from the issuance of the title, the interested party shall present in duplicate to the petroleum bureau, plans and descriptive data of the plans and installations proposed for the operation of the oil claim. These plans and data must comply with the requirements fixed by the Department of Industry, Commerce and Labor.

If the concessionaire does not present the documents called for in this article, the Department of Industry, Commerce and Labor shall impose upon him a fine varying from 50 to 1,000 pesos depending on the importance of the claim, and shall fix a new period within which to submit them; it not being permitted to begin the work of exploitation until this requirement has been complied with.

ART. 52. Within the period of three years counted from the issuance of the respective title, the concessionaire of a petroleum claim must furnish proof to the petroleum bureau that he has begun work on the claim.

ART. 53. The ratification or correction mentioned in Article 50 may be made upon petition of the owner of the claim, or the owners of adjoining claims who may be interested therein, or *ex officio* by the Department of Industry, Commerce and Labor. In the latter case the final decision of the Department mentioned will not prejudice the rights of the owner of the oil claim in question or of the neighbors who believe their interests to have been injured.

ART. 54. Every concessionaire of an oil claim is obligated to furnish to the Department of Industry, Commerce and Labor, such technical and financial data as may be requested by the petroleum bureau, and to admit to the plants the students of the official schools who visit such plants for the purpose of acquiring practical knowledge of the petroleum industry, furnishing every facility to such students. These obligations also apply to concessionaires of pipe lines, refineries, storage plants and loading stations.

ART. 55. The following shall be considered as causes for cancellation of oil claim titles: failure to pay the taxes referred to in Articles 47 and 48; failure to comply with any of the conditions stipulated in Articles 52 and 54; the closing down of work for a continuous period of six months without just cause, after exploitation work has been begun; or any serious infraction of the regulations covering exploitation within the terms therein expressed.

ART. 56. Forfeiture of a claim shall be declared administratively by the Department of Industry, Commerce and Labor, after the party interested has been cited to appear in his own defense, excepting when he can prove that his failure to appear has been due to *force majeure*.

ART. 57. In cases of cancellation of titles for failure to make rental payments, the corresponding declaration will be made within four months following the bimonthly term in which the said rental payments were not made.

In the cases of cancellation for failure to pay royalty, the declaration of annulment shall be made during the bimonthly term following that in which the penalty was incurred.

ART. 58. The titled claim of any holder of the right of exploitation whose title is declared canceled, may only be denounced during the three months following the date of cancellation, by the previous concessionaire and by the owner of the surface area of the claim, who, for that purpose, must present

a manifest in the form prescribed in Articles 15 and 17 of this law, in order that the petroleum agency of the Department of Industry, Commerce and Labor may admit the denouncement of the person making such manifest, as being the last holder of the right of exploitation.

If a claim whose title is declared canceled be under the exploitation of a third party through a contract still in force, the said contract of exploitation shall retain its force, the former concessionaire being substituted by the new one for the effects of the said contract.

ART. 59. The direct exploiter of a claim, officially recognized as such, although not the holder of the concession therefor, in case the title should be declared canceled shall enjoy the preferred right to denounce same within the thirty days following the period granted in the preceding article, to the various concessionaires of the right of exploitation and to the owner of the surface area of the claim, providing that none of the latter have made use of their rights. He shall also enjoy such preference in cases of cancellation of titles not covered by the preceding article, within a period of thirty days following the date on which the declaration of cancellation is exhibited on the bulletin board of the respective agency.

ART. 60. Any claim on land under contract, the title to which is declared canceled, shall be considered as free ground as soon as the periods fixed by the two preceding articles have terminated, and thirty days have transpired since the date on which the declaration that the claim is free ground was first exhibited on the bulletin board of the respective agency.

ART. 61. Any claim on land not under contract, the title to which is declared canceled, shall be considered as free ground thirty days after the declaration of cancellation is first exhibited on the bulletin board of the respective agency.

TRANSITORY ARTICLES

I. The denouncement of claims on lands with an area of less than four hectares shall be permitted only when there already exist thereon wells in production or in process of being drilled, these latter covered by permits granted previously, and on condition that such lands have been manifested in accordance with the decree of July 31 this year.

II. The decree of July 8 this year and all other laws and regulations are hereby annulled, in so far as they may conflict with this law.

I, therefore, order that this be printed, published, distributed and given due compliance.

Given at the Palace of the Executive Power of the Union, on the eighth day of August, nineteen hundred and eighteen.

V. CARRANZA [RUBRIC]

[Enclosure 2—Translation]

Decree of August 9, 1918, relating to oil claims¹

I, Venustiano Carranza, Constitutional President of the United Mexican States, to the inhabitants thereof make known:

That in use of the extraordinary powers in the Treasury with which I am vested, I have seen fit to decree the following:

ARTICLE 1. Paragraph II of Fraction 101 of Article 14 of the Federal stamp tax law of 1916, is amended as follows:

II. Those of oil claims, according to the area covered by each title, at the rate of \$3 (pesos) for each hectare or fraction thereof equal or greater than half a hectare. The stamps to be adhered to the title shall bear a covering seal reading "Petroleum Titles."

ART. 2. Paragraphs II and III of the fraction reformed shall in the future bear the Nos. III and IV respectively.

TRANSITORY: The decree of July 8 this year is canceled, relative to the tax on petroleum titles.

I, therefore, order that this be printed, published, distributed and given due compliance.

Given at the Palace of the Executive Power of the Union in Mexico, on the ninth of August, nineteen hundred and eighteen.

V. CARRANZA [RUBRIC]

¹ *El Pueblo*, August 10, 1918.

[Enclosure 3—Translation]

Decree of August 12, 1918¹

I, Venustiano Carranza, Constitutional President of the United Mexican States, to the inhabitants thereof make known:

That in use of the extraordinary powers in the Treasury conferred upon me by the Congress of the Union, and

WHEREAS, claims upon which exploration or exploitation work has been done, as well as those acquired after a geological survey, have a greater value than ordinary claims, and, therefore, their exploitation should not be granted through simple denuncements,

I have seen fit to decree the following:

ARTICLE 1. Recognized petroleum claims in which an investment of capital has been made for oil exploration or exploitation and which may not be covered by "manifestation" up to the fifteenth of this month—as prescribed in the decree of July 31 this year—are not subject to denunciation.

ART. 2. The right of oil exploitation of the said claims shall be acquired by means of special contracts to be made with the Department of Industry, Commerce and Labor, in conformity with the regulations to be issued on the subject, until such time as the organic law governing Article 27 of the Constitution shall determine the form in which the respective concessions are to be granted.

ART. 3. The present holders or exploiters of such claims, who may not have presented the manifestations called for in the decree cited, shall continue to hold and to exploit the said claims, paying to the Federal Treasury an annual rental of 5 pesos per hectare, and a royalty of 5 per cent of the production, until such time as the bases are issued for the making of the respective contracts; but if the interested parties prove that they are in possession of the said claims through contracts entered into prior to May 1, 1917, they shall continue to hold and to exploit them, subject to the obligation to pay the tax established by the said decree with reference to oil contracts.

ART. 4. The present operators of the said claims may continue to exploit work already begun and authorized, after compliance with the requirements of the preceding article, but they shall not be permitted to begin new work until after making the contracts by which they are given the right of exploitation of the said claims.

ART. 5. Payers of taxes established in Article 2 shall make their payments in accordance with Articles 6, 7, 8, 9, 10 and 11 of the decree mentioned.

ART. 6. Payment of the taxes established by this law shall give to the payers thereof the right of preference in the making of contracts covering the claims to which Article 2 refers.

ART. 7. Failure to make payment of the taxes established in Article 3, shall result in the loss of the right of preference acquired through that payment, and shall cause the claim in question to be declared free, or the right of preference to be granted to another.

ART. 8. The Executive shall make use of the right of economic coercion in securing compliance with the fiscal obligations imposed by this law.

TRANSITORY ARTICLE

This law shall become effective as from the sixteenth of this month.

I, therefore, order that this be printed, published, distributed, and given due compliance.

Given at the Palace of the Executive Power of the Union, this twelfth day of August, nineteen hundred and eighteen.

V. CARRANZA [RUBRIC]

File No. 812.512/2106

The Ambassador in Mexico (Fletcher) to the Secretary of State
No. 1337

MEXICO, August 21, 1918.

SIR: In continuation of my despatch No. 1312 of August 14, 1918, and confirming my telegram No. 1404 of August 17, 3 p. m.,² I have

¹ *El Universal*, Mexico, August 14, 1918.

² Not printed.

the honor to enclose copy and translation of the note from the Mexican Foreign Office, No. 2772 of August 17, replying to my note of April 2 last, protesting against the petroleum decree of February 19, 1918. This note also contains a reply to the request for postponement of the enforcement of the various petroleum decrees, made directly to President Carranza under date of August 13, a copy of which was enclosed in my despatch No. 1312 of August 14. I also enclose a copy of a note which the British Chargé d'Affaires has addressed to the Mexican Government, dated August 20 last, and in which protest is entered against the petroleum decrees issued since February 19 last.

As the Department will have noted from the telegrams passing between the representatives of the oil companies in the United States and their agents and attorneys here, *amparo* proceedings have been instituted in the courts of Mexico against the recent petroleum decrees. Mr. Rhoades informs me that the proceedings are progressing satisfactorily, and that he has every hope of securing what would amount to a preliminary injunction in our procedure. The issuance at the eleventh hour of the decree of August 12 has relieved the situation and removed the danger of arbitrary proceedings against the companies by the Mexican Government. I gathered from my last conversation with President Carranza and the decree which was issued the following day, as well as from the language employed in the reply forwarded herewith, that the Mexican Government welcomes the recourse which the companies have had to the courts.

A new Congress in which the Government can rely upon a majority support in both branches, will convene on the first of September, and I should not be surprised if an entirely new petroleum law were proposed by the Government almost immediately, although it may be decided to await the decision of the Supreme Court as to the constitutionality and legality of the decrees issued by the Executive. Should the decision of the courts uphold the contention of the Mexican and foreign companies and citizens as against the Government, the troublesome question of enforcing Article 27 retroactively will be removed, and the way will be open for the Mexican Government to proceed along more moderate and, as we think, more just lines, with the so-called nationalization of petroleum-producing lands. At any rate, an acute crisis in this petroleum matter has been avoided and present indications are that this difficulty, which seriously threatened the good relations between Mexico and the United States, will be adjusted by peaceful and legal methods.

I have [etc.]

HENRY P. FLETCHER

[Enclosure 1—Translation]

The Mexican Undersecretary of State for Foreign Affairs (Pérez) to the American Ambassador (Fletcher)

No. 2772

MEXICO, August 17, 1918.

By direction and under instructions from the President of the Republic, I have the honor to reply to note No. 290 which your excellency addressed to the Government of the Republic under date of April 2, this year, with regard to the decree of February 19 which established taxes on petroleum lands and petroleum contracts, as well as to that addressed to the said high official on the 13th of

August last. In the first note, your excellency presents through me to the President of the Republic, a formal and solemn protest of the Government of the United States against the violation of private property rights legitimately acquired by American citizens, which it is considered the application of the decree mentioned will bring with it.

I must not conceal from your excellency the fact that it has been a matter of surprise for the Mexican Government to receive a diplomatic representation with reference to an act proceeding from the legitimate exercise of its sovereignty, such as the issuance of a decree, and that the said representation contained the proposition of affording undue protection to foreign citizens and interests, and which, if made good, would have the effect of placing them in a better and more privileged situation than Mexicans themselves.

Your excellency will understand that neither the one nor the other can be consented to by a government or a people conscious of its dignity and high duty of preserving unblemished the national sovereignty.

Of the principal questions covered by your excellency's note referred to, one relates to the tax created by the decree on oil lands and contracts, and another to the system of real property contained in Article 27 of the political Constitution of the Republic.

Now, inasmuch as the right of decreeing taxes is an attribute of internal sovereignty, and the organization of property in the country is an attribute of territorial sovereignty, neither of the two questions can be made the basis of diplomatic representation, and less still of a formal and solemn protest such as that which your excellency makes in the name of and under instructions from your Government, as both of these things imply a real diplomatic intervention in the internal affairs of Mexico. The Mexican Government has not recognized and will not recognize that any country has the right to interfere in any form in its internal affairs nor even of protesting against acts exclusively within the exercise of its sovereignty.

The tax has been established by a general law which affects Mexicans and foreigners, and is applicable in any section of the country where a petroleum deposit may exist or may be discovered. Nevertheless, your excellency announces that the Government of the United States might be obliged to protect the interests of its citizens from the application of said law; and while the character of this protection is not stated, it undoubtedly tends to place foreigners in Mexico in a privileged position which, your excellency will understand, is contrary to every rule of right and wounds the dignity of the Mexican people.

The protection of national and foreign interests within the country is a duty and at the same time a faculty of the Mexican Government exclusively. By announcing protection by your excellency's Government, if necessity arises, the idea is clearly revealed of obtaining undue preference in favor of American interests and citizens, this fact being made more evident still when it is considered that Mexican companies and proprietors have made no move to escape the tax, and that their recourse, in case they believe it to be excessive, is to appeal to the courts of the Republic demanding protection and *amparo*, and this is the only means which foreigners also should adopt.

The Mexican Government can not consent to any measure whatsoever which the American Government may purpose to put into practice to place its citizens in a more favored situation than that of Mexicans in their own country; and in so doing is sure of the unanimous support of public opinion and of the nation in enforcing respect for its sovereignty.

The criterion of the Mexican Government in this matter is not an innovation in international law, but the simple application of the principle of the equality of nations, frequently forgotten by strong governments in their relations with weak countries. It is, furthermore, a principle which the President desires to see implanted and respected in the diplomatic, mercantile, and all other relations which may be established between countries, and which he himself has proclaimed on repeated occasions, in the following terms:

No individual should aspire to a better situation than that of the citizens of the country to which he goes; legislation should be general and abstain from distinctions on account of nationality. Neither the power of nations nor their diplomacy should serve for the protection of particular interests or to exert pressure upon the governments of weak peoples with the end of obtaining modifications of laws which are disagreeable to the subjects of a powerful country.

In fiscal matters, this amounts to a declaration of perfect equality of nationals and foreigners in the collection of taxes decreed by the public power of a country.

The protection which your excellency states the Government of the United States may find itself in the necessity of extending to its nationals, and which is ratified in the note of August 13, constitutes a threat which is in contrast with the pacific ideals of His Excellency President Wilson and does not concord with the reiterated manifestations of friendship and respect which he has proclaimed in regard to Mexico.

Whatever may be the intention of the American Government in this respect, the Mexican Government believes it necessary to state that it will not accept the interference of any foreign power in the arrangement of its internal affairs and that it will not admit any proceeding which under the pretext of protection to foreign interests wounds the national decorum or impairs the exercise of its sovereignty.

The issuance of the decree of February 19 is an act which of itself cannot form the basis of diplomatic representations. If your excellency's Government does so it is because it believes the said decree deprives American citizens of acquired rights and that the seizure or spoliation of these rights by the mere will of the sovereign without due process of law, has always been held as a denial of justice and sufficient cause for diplomatic representations.

Your excellency states that this seizure or spoliation arises from the separation which our law makes between the surface and subsoll rights, which amounts to a denial of justice.

A denial of justice consists in that a judge refuses to impart justice when it is asked of him, or that any authority does not, either from negligence or a voluntary refusal, pronounce its decision. In general language a denial of justice is every refusal to accord to a person that which is his due.

The Mexican Government has no knowledge up to the present that either American citizens or any one else who believe themselves prejudiced by the decree, have resorted to ordinary legal methods or to the appropriate authorities for relief against the petroleum tax, since the discussions to which your excellency's second note refers were of a private character.

The petroleum tax embraces all the requisites which science assigns to every impost, but if it be considered that its application is unjust or the amount excessive, our laws assure the means of defense and our tribunals are prompt to decide as to the application of said laws. There is an individual guaranty established in Article 22 of our political Constitution which prohibits the confiscation of property, and this is equally afforded by Article 17 of the same fundamental code, which provides that the courts shall be open for the administration of justice at such times and under such conditions as the law may determine. Nevertheless, the American interests which your excellency represents and defends have not resorted to the established legal remedies in order that the proper authority should decide with regard to the injuries and confiscations which they believe themselves to have suffered; and yet your excellency bases the diplomatic representation made in the name of your Government, on a "denial of justice," which really has not taken place.

The seizure or spoliation of property by the mere will of the sovereign is exactly one of the things which our Constitution prohibits and condemns in Article 14. If such cases of spoliation or confiscation should be proven and our tribunals should deny judgment, or, having pronounced judgment favorable to the complainant, the Mexican Government should refuse to respect the judgment, then there would be a denial of justice and reason for diplomatic representations. In the case which gave rise to your excellency's note, the courts have not yet intervened, and the expression "denial of justice," which is used as a basis for the representation, must have been taken in a sense distinct from that commonly assigned to it in international law.

The American doctrine in this respect is conclusive. It defines and considers the tax as a necessary attribute of sovereignty and teaches that as long as the impost is uniform in its execution and can be considered as an impost and not as a confiscation or arbitrary imposition, no representation may be made to a foreign government in aid of the foreigners who may be affected, inasmuch as the only safeguard against the abuse of the power of levying taxes is found in the structure of the Government itself, and reclamations or complaints on account of an excessive tax are properly questions within the competency of the local tribunals.

As a matter of fact, the tribunals alone are capable of passing judgment upon the equality of distribution of the tax and the other requisites, and it is not just that the very foreigners who are affected should judge and decide such questions. Otherwise, it would be sufficient, in order to escape from a legitimately decreed impost, to allege the pretext that it is confiscatory. Furthermore, it is customary in all countries that diplomatic action should be the last to be exercised and that only after ordinary means have been exhausted.

Your excellency affirms that investments of American citizens have been effected under the guaranty of the good faith of the Mexican Government, which virtually has invited them to make such investments; and that it cannot believe that now this Government will disregard its obligations, now that the country finds itself at peace and at a stage of progress.

Your excellency has interpreted faithfully in this part of your note the disposition of the Mexican Government with respect to foreign investments, since its conduct and intentions have been and will be in the future, the conciliation of foreign interests with the progress of the Republic and its legitimate rights, by means of a perfect equality before the law of Mexicans and foreigners.

Assuredly American interests are worthy of every protection and the Mexican Government recognizes that they may contribute to the industrial development of the Republic, particularly in the petroleum industry, and in precisely this spirit has the decree of February 19 been issued (aside from the fundamental question which consists in putting into practice the dominion of the nation over the subsoil) because, respecting the existing situation, it impedes and prevents speculations in petroleum lands prejudicial to the operators and to the interests of the country.

With reference to the request which, on instructions from your Government, your excellency makes in the second note, to the effect that the petroleum decrees referred to be not made effective on August 15, the matter need not be specially considered, inasmuch as the time for making and the form of manifestations provided for by the said decrees had been modified previously to its presentation.

The Mexican Government desires to live in peace and friendship with all nations and in good harmony with your excellency's Government. In order to accomplish this, it will endeavor to respect the dignity and the interests of foreigners and has no idea of passing legislation designed to molest a friendly country or its citizens. These may, with all confidence, continue to rely upon the laws and institutions of the Republic.

The Mexican Government hopes it has dissipated with these explanations all ground for misunderstanding between two friendly peoples and all apprehension or fear on account of American interests invested in Mexico; and relying upon the profound knowledge which your excellency personally has of existing conditions, is certain your excellency will make plain to the Department of State the true object of the fiscal dispositions which brought forth your note, and the Mexican Government's reason for maintaining the perfect equality of nationals and foreigners before the law.

I renew [etc.]

By reason of illness of the Secretary.

The Undersecretary:

E. GARZA PÉREZ

[Enclosure 2]

The British Chargé (Thurstan) to the Mexican Secretary of State for Foreign Affairs (Aguilar)

No. 50

MEXICO, August 20, 1918.

MONSIEUR LE MINISTRE: I have the honour to remind your excellency that on April 30 last Mr. H. A. C. Cummins, who was at that time in charge of His Majesty's Legation during my absence, acting under instructions from His Majesty's Government, delivered a note to you, No. 34, protesting against the enforcement of the provisions of the decree of February 19 last, which imposed certain taxation on petroleum-yielding lands and petroleum contracts.

The attention of His Majesty's Government has been drawn to the fact that the decree of February 19 has now apparently been abrogated and has been replaced by a decree dated July 31 last, while other decrees bearing on the

taxation of petroleum have since been published. My Government have not yet been able to examine the text of the decree of July 31 and of the other decrees mentioned but from the information as to their contents which is at present at their disposal it would seem to them that the provisions of the new legislation which has been substituted for the decree of February 19 would, if put into effect, equally impose a crushing burden on the oil industry in Mexico and in consequence be equally prejudicial to the interests of British subjects who have invested their money in the oil industry of this Republic. Consequently my Government, pending at least a close examination of the text of the new decrees to which I have had the honour to refer above, cannot avoid entertaining the most serious fears as to the effect which the new legislation would have on the interests of British subjects and I am accordingly instructed once more to enter a protest in the terms employed by Mr. H. A. C. Cummins in his note No. 34 of the 30th of April last, addressed to your excellency.

I avail [etc.]

E. W. P. THURSTAN

File No. 812.512/2218

The Ambassador in Mexico (Fletcher) to the Secretary of State

No. 1611

MEXICO, November 20, 1918.

SIR: With reference to my telegram No. 1720, November 18, 1 p. m.,¹ I have the honor to transmit herewith the text of presidential decree of November 14, 1918, as it appeared in the local press, together with a translation thereof, relative to the extension to December 31 next of the period allowed for the denunciation of oil claims which may have been manifested in accordance with the decree of July 31, 1918.

I have [etc.]

HENRY P. FLETCHER

[Enclosure—Translation]

Decree of November 14, 1918²

I, Venustiano Carranza, Constitutional President of the United Mexican States, to the inhabitants thereof, make known:

That, in use of the extraordinary powers in the Department of the Treasury, vested in me by the Congress of the Union, and whereas the period fixed by the decree of August 8 this year establishing regulations governing Article 14 of the decree of July 31 last is about to expire, for the presentation of the denunciations of oil claims manifested in accordance with the latter decree mentioned, and whereas it is proper that there be given every facility compatible with the public welfare to companies and persons who obeyed the said decree, and who have requested an extension of the period referred to, I have seen fit to decree the following:

ARTICLE 1. The period prescribed by Articles 5 and 6 of the decree of August 8 this year for the denunciation of oil claims manifested in conformity with the decree of July 31 this year is extended to the 31st day of next December, without waiver during the said extension of the corresponding taxes.

ART. 2. The declaration of preference referred to in Article 15 of the decree of July 31, hereinbefore mentioned, shall be made applicable during the first fortnight of January 1919.

I, therefore, order that this be printed, published, distributed, and given due compliance.

Given at the National Palace of Mexico, on the fourteenth day of November, nineteen hundred and eighteen.

V. CARRANZA [RUBRIC]

¹ Not printed.

² *E. Universal*, November 16, 1918.

File No. 812.512/2210

The Ambassador in Mexico (Fletcher) to the Secretary of State

No. 1612

MEXICO, November 20, 1918.

SIR: I have the honor to report that, as the Department will have seen from the telegrams passing through the Department, the petroleum negotiations being carried on here between Messrs. Garfield and Rhoades, representing the American oil companies, and the Mexican Government are proceeding under favorable conditions, and there is a fair prospect that a solution satisfactory to all concerned will be reached. While I have kept in close touch with the situation I have not appeared in any way in the negotiations further than to point out to President Carranza in my interview with him on my return to Mexico the beneficial effect a satisfactory solution of this difficulty would have. The proposed new law is almost ready for submission to Congress.

The Department will be kept fully informed by telegraph.

I have [etc.]

HENRY P. FLETCHER

File No. 812.512/2238

The Ambassador in Mexico (Fletcher) to the Secretary of State

No. 1639

MEXICO, December 3, 1918.

SIR: With reference to the Embassy's despatch No. 1627 of November 27, 1918,¹ I have the honor to transmit herewith the translation of the new proposed petroleum law, submitted to the Congress by President Carranza on November 23, 1918.

I have [etc.]

HENRY P. FLETCHER

[Enclosure—Translation]

Proposed petroleum law transmitted to the Congress of Mexico by the President of the Republic, on November 23, 1918

The Executive of the Union, in the use of the power granted him by Clause I of Article 71 of the Federal Constitution in force, and considering:

That Article 27 of the Constitution sanctions the principle of direct domain of the nation over the carbides of hydrogen;

That the effective application of this constitutional principle renders necessary the enactment of an organic law defining rights and establishing legal procedures, in accordance with the legitimate interests of the petroleum industry;

That the increasing importance of this industry demands that preference be given to the solution of all problems connected therewith, in order that exploitation operations may be fomented by the investment of new capital; and,

That since this situation can only be created by the establishment of a legal system which will consolidate past investments and facilitate future ones;

Submits to the consideration of the honorable Congress, the following

PROPOSED ORGANIC LAW, BASED ON ARTICLE 27 OF THE CONSTITUTION,
COVERING THE SUBJECT OF PETROLEUM

CHAPTER I.—THE PETROLEUM CLAIM AND ITS ACCESSORIES

ARTICLE 1. The following pertain to the direct domain of the nation and are subject to the provisions of this law:

- I. The pools, reservoirs and natural deposits of petroleum;
- II. Gaseous hydrocarbides encountered in the subsoil or surface seepages;

¹ Not printed.

III. Natural deposits of ozokerites and asphaltum;

IV. Any mixture of hydrocarbides of the different groups due to the action of natural agencies.

ART. 2. The direct domain of the nation over the substances enumerated in the preceding article is inalienable and imprescriptible; consequently, the rights which are granted under this law will not constitute absolute and conclusive possession.

ART. 3. The rights granted under this law may be hypothecated, transferred and transmitted through heritage, in the same cases as are authorized by the common laws for real properties, but the Department of Industry, Commerce and Labor must be notified of all such transactions effected. Failure to comply with this provision shall be punished by a fine of from 50 to 500 pesos, and no class of works connected with the petroleum industry will be permitted to be executed on the petroleum claims affected until the fine imposed has been paid.

ART. 4. The petroleum industry is declared to be a public utility; therefore, surface ground necessary for the exploitation of the claims may be condemned in accordance with the provisions of law.

ART. 5. Each petroleum claim shall be the object of a concession.

ART. 6. A petroleum claim is considered to be a plot of ground of indefinite depth, bounded underground by the vertical planes corresponding to the surface boundaries of a continuous area of land, and destined to the exploitation of petroleum.

ART. 7. The exploitation of petroleum covers the extraction, recovery or utilization of the substances specified in Article 1.

ART. 8. The surface area of a claim shall not be less than four hectares, and its shape shall be such as to admit of the location of a well and tank, in accordance with the regulations in force on the date of the concession.

ART. 9. The sole purpose for which concessions are granted under this law by the Federal Government to individuals or to civil or commercial corporations incorporated in conformity with the Mexican laws, shall be the exploitation of the substances enumerated in Article 1.

ART. 10. The concessionaire of a petroleum claim may extract therefrom and utilize all the substances referred to in Article 1, without other restrictions than that of not invading adjoining claims with his extraction operations, and that of complying with the provisions of this law and the regulations which may be issued covering the exploitation of petroleum.

ART. 11. The exploiters of a petroleum claim may occupy, within the limits of the claim and upon the judicious authorization of the Executive, the surface area necessary to the extraction operations and the immediate storage of the products extracted, paying the corresponding indemnity to whomsoever may be entitled thereto, but the consequent legal proceedings shall not delay the execution of the works.

ART. 12. The exploiters of a petroleum claim shall acquire the right of transit and pipe-line right of way, through the judicious authorization of the Executive, and to install the pipe lines and pumping stations necessary to the exploitation of the claim, paying the corresponding indemnities to whomsoever may be entitled thereto, but the consequent legal proceedings shall not delay the execution of the works.

ART. 13. The exploiters of petroleum claims shall have the right to construct storage plants and refineries, upon the approval of the respective plan by the Executive, and the consent of the owners of the lands intended to be occupied. In case such consent cannot be obtained, the necessary surface area shall be condemned in conformity with the laws in force covering condemnation proceedings.

ART. 14. The exploiters of petroleum claims shall have the right to build wharves, loading stations, and lay submarine pipe lines, upon the approval of the Executive and in conformity with the dispositions in force covering such matters.

ART. 15. Only the respective concessionaires of petroleum claims shall have the right to construct storage stations or refineries thereon.

ART. 16. The concessionaire of a claim may utilize the surface waters necessary to his exploitation operations, in accordance with the common laws governing the same. He may likewise use underground waters for the same purpose, upon authorization of the Executive and by paying the corresponding indemnity to whomsoever may be entitled thereto.

CHAPTER II.—HOW THE CONCESSION COVERING A PETROLEUM CLAIM MAY BE ACQUIRED, AND HOW IT MAY BE FORFEITED

ART. 17. The right to exploit a petroleum claim shall be acquired originally from the nation, through the title issued by the Executive, after the requisites established by this law have been complied with.

ART. 18. For the effects of this law, the lands of the Republic shall be considered as divided into the following classes:

- I. Lands owned by individuals;
- II. *Pro indiviso* lands;
- III. Lands owned by the nation, for public use;
- IV. Community lands;
- V. Commons; and
- VI. All lands owned by the nation, states and municipalities, not included under the preceding classes.

ART. 19. On lands owned by individuals the right to exploit a petroleum claim shall be conceded, after denunciation, upon the payment of the taxes and compliance with the other requisites of this law and its regulations.

ART. 20. Upon *pro indiviso* lands which have not been legally contracted for the exploitation of petroleum, only the coowners thereof may denounce petroleum claims. Denunciation proceedings shall be suspended until a majority of the coowners, representing the greater part of the surface area of the community land, have appeared before the Secretary of Industry, Commerce and Labor, who shall issue due notice to all the coowners to so appear, to render, express and prove declarations of their individual rights, and, all being agreed, a common title shall be extended to them covering the petroleum claim in the subsoil of the *pro indiviso* land. In these titles the representation of each co-owner shall be stated. The citation by which the coowners are convoked shall be exhibited on the bulletin board of the respective petroleum agency during a period of sixty days, and shall be published three times, during the same period, in the *Official Daily* of the Federation and of the state to which the land belongs, and furthermore in one of the periodicals of greatest circulation in the community, selected by the chief of the agency.

ART. 21. A period of ninety days having transpired, counting from the date of the citation mentioned in the preceding article, without all the coowners of the *pro indiviso* land in question having appeared either in person or through legally authorized representatives, those who have not appeared shall be considered as having lost their rights, and a title to the corresponding claim shall be issued, after compliance with the mandates of this law, to those coowners who have appeared. When those who appear do not solicit title to a petroleum claim covering all the land involved, a title shall be issued to them covering the part which they solicit, and the remaining land shall be declared free ground.

ART. 22. In the case of community lands, concession to explore for or exploit petroleum shall not be granted, unless the concessionaire removes the community to a spot selected by the Executive, and indemnifies the members of the community for all the damages caused by such transfer.

ART. 23. In the case of commons, titles covering petroleum exploitation shall only be issued after the lands have been divided and the fractions adjudicated, under the same terms as apply in the case of privately owned land.

ART. 24. There shall be considered as national preserves, the lands comprised in Clauses III and VI of Article 18, national lands granted with reservation of subsoil rights, and all those which, as established hereinafter, shall be withdrawn from petroleum exploitation.

ART. 25. The national preserves shall be granted for exploitation through special contracts made by the Executive in accordance with the following bases:

- (a) In every case compliance with the requisites of this law and its regulations shall be demanded;
- (b) According to the location and importance of the claim solicited, the Government will demand a share of the production obtained, variable between 10 and 20 per cent thereof;
- (c) Corporations that solicit claims on national preserves must have the fully paid capital that in the judgment of the Executive is necessary, and of which they shall exhibit 20 per cent before obtaining the concession;
- (d) These contracts shall be made without prejudice to third parties who hold a better right, and also without prejudice to navigation, agri-

culture, fisheries, common transit and other services or uses to which the lands involved may be destined by law or usage; and,

(e) The concession contracts covering national preserves shall be subject to the approval of Congress.

ART. 26. Only denouncements of petroleum claims on free ground shall be accepted; the following not being considered as such: Land covered by a petroleum claim title in force, and that which has been denounced and the denouncement of which is still pending decision.

ART. 27. Nor shall the following land be considered as free ground, until a period of thirty days has elapsed counted from the date on which the relative declaration was first exhibited on the bulletin board of the respective petroleum agency:

- I. That covered by claims the titles to which have been declared canceled; and,
- II. That corresponding to claims the denouncements on which have been definitely rejected.

ART. 28. Each denouncement shall cover only a single petroleum claim.

ART. 29. The denouncer of a petroleum claim shall file in triplicate, with the corresponding agency of the Petroleum Bureau of the Department of Industry, Commerce and Labor, a denouncement in which his name, age, profession, domicile and nationality are stated, as likewise the location, area boundaries and all other distinguishing features which will serve to identify the claim solicited.

ART. 30. If the denouncer is a foreigner he shall include with his petition a statement from the Department of Foreign Affairs, certifying to his having complied with the requisites of Article 27 of the Federal Constitution.¹

ART. 31. The denouncer shall present together with his denouncement, a statement from the stamp tax administration certifying that he has deposited therein the value of the revenue stamps which must be affixed to his title, according to the area of the claim solicited.

ART. 32. The agent of the Petroleum Bureau shall receive the denouncement, entering the same in his register and noting therein and on the original and copies of the denouncement, the date and hour of filing. The denouncer may demand that these notations be made in his presence. If in the judgment of the agent the denouncement is not sufficiently clear, he shall request the person filing the same to make the necessary explanations, and shall enter same in his register book and on the original and copies of the denouncement. The lack of explanatory data shall not constitute cause for refusing to register the denouncement. The duplicate copy of the denouncement, with the respective notations thereon, shall be returned to the person filing the same.

ART. 33. Within three days following the filing of a denouncement, and in view of the explanations rendered, the agent shall decide whether or not it shall be accepted. If accepted, he shall proceed to dispatch the relative documents; if rejected, he shall state in writing the reason for his adverse decision, which shall be subject to revision by the Department of Industry, Commerce and Labor on petition of the denouncer, filed with the said agent upon being notified that his denouncement has been rejected, or within the three following days.

ART. 34. When two or more denouncements, filed simultaneously and referring to the same land have been declared admissible, process shall be given to the one designated by the laws of chance, unless the interested parties reach an agreement as to which shall be given preference.

ART. 35. When several denouncements are presented simultaneously, covering different claims but all of which contain a common part, a drawing shall be held, taking part therein all the denouncements filed. If the denouncement favored by chance includes all the other denouncements, by that simple fact all the other denouncements which have participated in the drawing shall be rejected; but if the winning denouncement includes only a part of the land denounced, the remainder shall be submitted to a new drawing among all the denouncers, with the exception of the winner of the first drawing; if, after the second drawing, there still remains uncovered a part of the land involved,

¹This refers to renunciation of citizenship rights as regards property held by foreigners in Mexico.—TRANSLATOR.

further drawings shall be held in the same manner as long as may be necessary. The drawings shall be held at intervals of three working days, in order that the denouncers may be able to be present at each drawing with their denouncements in due form. The interested parties who do not assist at the drawings to which they have been convoked, shall be considered as having desisted from their denouncements and shall lose their rights, the drawings being held only from among the denouncements of those present. All the drawings shall be subject to the provisions of the regulations which are issued to cover.

ART. 36. As soon as an agent accepts a denouncement, he shall exhibit the same on his bulletin board during one month, and shall order it to be inserted three times during the same period of time and for the account of the interested party, in the *Official Daily* of the Federation and of the State to whose jurisdiction the claim denounced corresponds, and, furthermore, in another periodical selected by the agent from among those of greatest circulation in the locality. The interested party has the right to arrange personally for these insertions.

ART. 37. The following are causes for opposition which will suspend the course of the denouncement:

- I. The total or partial invasion of a titled petroleum claim, the title to which has not been declared canceled;
- II. A prior denouncement legally filed, covering a part or all of the same claim denounced, and which is pending decision; and,
- III. Not having terminated when the denouncement is filed, the period during which this law grants preference to some individual or company, covering the claim involved or some part thereof.

ART. 38. An opposition based on any of the causes indicated in the preceding article shall be entered before the corresponding petroleum agency during a period of sixty days counting from the date on which the denouncement is first exhibited on the bulletin board of the agency.

ART. 39. The opposition having been entered, a meeting shall be called for the purpose of securing an adjustment among the interested parties, observing the method of procedure indicated in the regulations of this law. In the event no adjustment is reached, the interested parties shall be notified in the act that they may select either administrative or judicial channels to adjust the opposition.

ART. 40. Should the interested parties not select immediately the administrative channels, the proceedings of the denouncement shall be suspended and the same shall be remitted within forty-eight hours to the judicial authorities, in order that the corresponding suit may be substantiated in accordance with the provisions of the respective articles of this law.

ART. 41. In case the interested parties choose the administrative channels, the denouncement shall proceed in order that at the opportune time the Federal Executive, hearing both the denouncer and the opposer entering the opposition, in accordance with the provisions of the regulations of this law, may render a final decision on the opposition.

ART. 42. If the interested parties have chosen administrative channels, they may not later have recourse to judicial channels; but if they have chosen the latter they may, so long as an executory decision has not been rendered, submit the opposition to the decision of the Executive.

ART. 43. Any cause of opposition differing from those indicated in Article 37 should be entered before the agency, but the latter shall not then suspend the proceedings of the denouncement. When the denouncement papers are passed to the Executive for revision he shall decide whether or not the said cause should be given consideration. If accepted for consideration, the opposition shall be duly substantiated and decided, observing in the consequent proceedings the method indicated in Articles 39 to 42. Should the Executive not consider the said opposition, he shall proceed as though it had not been entered, the opposer reserving his due rights.

ART. 44. During the revision of the denouncement papers oppositions entered in accordance with the legal requirements may be taken into consideration, always provided that the opposers furnish proof of not having had recourse to the petroleum agency for causes beyond their control.

ART. 45. The opposer who does not appear at the adjustment meetings shall be considered as having desisted from his opposition, except in case of causes beyond his control.

ART. 46. The denouncer of a claim who fails to pay for the insertions mentioned in Article 36 shall be declared in default; as likewise he who does not furnish the explanatory data requested in order to proceed with the denouncement, within the period of time fixed therefor; and he who fails to appear at the adjustment meetings when opposition is entered to the said denouncement. The defaulting denouncer shall forfeit the deposit referred to in Article 31.

ART. 47. The Executive may absolve the defaults of the defaulting denouncer, if the latter furnishes proof during the progress of the denouncement or during the revision of the documents thereon, that his defaults have been due to causes beyond his control.

ART. 48. A period of sixty days having transpired without any opposition having been entered which would cause the suspension of the administrative proceedings, the petroleum agent shall remit to the Department of Industry, Commerce and Labor, a copy of the denouncement file in its present status.

ART. 49. Titles to petroleum claims shall be issued by the Executive after the termination of the proceedings. These titles confer legal possession to the respective claims without the necessity of any other formality.

ART. 50. Titles shall be issued in favor of the denouncers, without prejudice to third parties. In order that a title may be issued to a person other than the denouncer, the transfer of the rights of the latter in favor of the former must be confirmed by a public instrument. The interested party shall furnish proof of having paid the rental corresponding to his claim, before receiving the title.

ART. 51. The Department of Industry, Commerce and Labor may demand that the interested party correct whatever imperfections there may be in the denouncement or in the documents thereof, providing such imperfections do not involve an infraction of this law or of the regulations. The denouncer who, in that case, does not comply with this requisite, shall be declared desisted from his denouncement, and the penalty established in Article 46 of this law shall be imposed.

ART. 52. In the cases of infraction of the law or of the regulations, or of imperfections in the denouncement documents, imputable to the agent, the Executive shall enforce the responsibility of the latter, without prejudice to the rights of the denouncer to demand indemnity from the agent for the damages and injuries sustained.

ART. 53. The concessionaire of a petroleum claim may at any time request a reduction in size of the same. The respective petition shall be presented to the corresponding petroleum agency, together with a plan of the reduced claim and the original title.

The new title will cancel the previous one, the stamp title tax not being levied. The concessionaire shall be obligated to erect new monuments on the reduced claim within the period of one year counting from the date the new title is issued. As soon as the reduction has been approved, the excess land shall be declared free ground.

ART. 54. The concessionaire of a claim may request that the same be enlarged by the addition of an adjoining lot, the area of which is less than four hectares. The petition must be accompanied by a plan showing the horizontal projection of the original claim and of the additional fraction, as also the certificate substantiating the deposit of the value of the revenue stamps corresponding to the title tax on the said fraction. The petition shall be treated as a denouncement and a new title shall be issued to the enlarged claim, affixing thereto the revenue stamps corresponding to the additional fraction, and noting thereon that the original claim had already been titled.

ART. 55. When the surface area of the fraction that it is desired to add to a claim is greater than four hectares, a petition for enlargement will not be accepted, but must be treated as a separate denouncement.

ART. 56. The concessionaire of a petroleum claim shall pay the rentals and royalties stipulated in the decree of July 31 of this year, the same being effective from the date of the title.

ART. 57. Within the period of one year from the date of issuance of the title covering a petroleum claim, the interested party is obligated to erect monuments at the corners and other conspicuous boundary points, and such intermediate monuments as may be necessary so that each is visible from the preceding one, and to present in duplicate to the Department of Industry, Commerce and Labor a plan of the land so monumented. This plan shall fulfil the requisites fixed by the regulations covering exploitation, and in accordance therewith the ratification or rectification of the boundaries shall proceed.

Should the concessionaire fail to comply with this obligation, the Executive will levy a fine of five hundred pesos, and will fix a new period of one year during which to comply with the said obligation; should he not comply during this new period, a fine of one thousand pesos will be imposed, and thus successively, a fine of one thousand pesos will be collected for each year that transpires, the Executive reserving the right, if he judges the same convenient, to order the plan made and the claim monumentalized for the account of the concessionaire.

ART. 58. During the period of one year following the presentation of the plan of the monumentalized claim, the concessionaire must present in duplicate to the Department of Industry, Commerce and Labor, plans and descriptive memorials of the works and installations projected for the exploitation of the petroleum claim. The said plans and memorials shall fulfil the requisites of the regulations covering exploitation.

If the concessionaire does not present the documents mentioned in this article, the Executive will impose a fine of two hundred pesos, and will fix a new period of one year during which to present them, repeating the fine as many times as may be necessary until compliance. The concessionaire of the claim may not commence exploitation operations without having previously complied with the obligation imposed by this article.

ART. 59. During the period of one year from the date of presentation of the plans and memorials to which Article 58 refers, the concessionaire of a petroleum claim is obligated to furnish proof to the Department of Industry, Commerce and Labor that he has commenced exploitation operations on his claim. Once such operations have been commenced he shall report each semester regarding the progress made, no interruption of operations for a period exceeding six months being permitted.

ART. 60. The ratification or rectification treated of in Article 57 may be made on petition of the owner of the claim in question, or of owners of adjoining claims, or *ex officio* by ruling of the Executive. In the latter case, the final decision of the Executive shall not prejudice the rights of the owner of the rectified petroleum claim and of the owners of adjoining claims who consider themselves injured thereby.

ART. 61. The Department of Industry, Commerce and Labor, on petition of the owner of a petroleum claim, may order corrected administratively, and without prejudice to third parties, any errors that may appear in the title, providing such correction does not affect the location of the claim. In the latter case a new title shall be issued, on which the title tax will not be levied, and which will cancel the previous title.

ART. 62. All rectifications shall be based upon the data which has been furnished in the denunciations.

ART. 63. A petroleum claim may be subdivided into fractions that fulfil the requirements of this law; but in order that the subdivision may have the desired legal effect, the fractions shall be monumentalized and titled, the original title being canceled. The petition for subdivision shall be presented to the agency having jurisdiction over the claim involved, being accompanied by a plan of the subdivision.

ART. 64. All concessionaires of petroleum claims are obligated to furnish to the Department of Industry, Commerce and Labor, the technical and economical data requested thereby through the petroleum bureau, and to give access to their works to the students of the official schools making a practical study of the petroleum industry, providing them with every facility. These obligations extend to concessionaires of pipe lines, refineries, storage plants and loading stations.

ART. 65. The discoverer of a petroleum deposit outside of the States of Chiapas, San Luis Potosí, Tabasco, Tamaulipas and Vera Cruz shall pay 10 per cent of the taxes imposed on ordinary claims, and may denounce claims up to one hundred hectares to protect the deposit discovered.

ART. 66. Petroleum claim titles may be canceled for the following reasons: failure to pay any of the taxes referred to in Article 56; failure to comply with any of the conditions imposed in Articles 59 and 64; or any serious infraction of the regulations covering exploitation in the terms stipulated therein.

ART. 67. Forfeiture of titles shall be declared administratively by the Executive, through the Department of Industry, Commerce and Labor, after the interested party has been cited to appear in his own defense, providing he does not furnish satisfactory proof to the said Department that his failure has been due to causes beyond his control.

ART. 68. In cases of forfeiture for non-payment of rent, the corresponding declaration shall be made within four months following the bimonthly term in which the failure in payment occurred.

In cases of forfeiture due to non-payment of royalties, the declaration of forfeiture shall be made during the bimonthly term following that in which the penalty was incurred.

ART. 69. The direct and officially recognized exploiter of a claim the title to which has been declared canceled, he not being the concessionaire, shall enjoy the right of preferential denunciation during the thirty days subsequent to the date on which the declaration of cancelation is first exhibited on the bulletin board of the respective agency.

ART. 70. In case the exploiter of the claim does not exercise the right of preference granted in the preceding article, the Executive shall, without prejudice to the interest of third parties, take possession of the claim, machinery and other installations used in the exploitation operations, selling the concession to the claim at public auction. Reference shall be made to this article in all petroleum claim concessions.

CHAPTER III.—TRANSPORTATION, STORAGE AND REFINING

ART. 71. The Executive shall grant concessions to individuals or to civil or commercial corporations organized in accordance with the Mexican laws, covering the establishment and operation of pipe lines, storage stations for petroleum, gas and the by-products thereof, and refineries. The form and manner of dispatching petitions for such concessions, shall be determined by the regulations.

ART. 72. The concessionaire of the installations referred to in Article 71 shall be entitled to right of passage, pipe line right of way and the right of expropriation.

CHAPTER IV—RIGHT OF WAY AND EXPROPRIATION

ART. 73. The rights of way authorized by this law shall be governed by the precepts of the civil code of the Federal District, as regards the rights and obligations of the expropriating and expropriated parties, without prejudice to the provisions of the following article.

ART. 74. Pipe line right of way implies the right to occupy the surface ground necessary, in the judgment of the Executive, for the laying of the pipes to carry the petroleum, natural gas and by-products thereof; for the installation of the pumping stations and oil reservoirs necessary to the operation of the pipe line; for the construction of service railways, and telegraph, telephone and power lines to be used in the development of the petroleum industry; in general, for all works the object of which is the exploitation of a petroleum claim. This right of way shall extend over a zone 10 meters in width, unless otherwise agreed.

ART. 75. The rights of way established by this law shall be created:

- I. By consent of the owner of the expropriated ground, registered in a public instrument;
- II. By decision of the Executive; and
- III. By a court verdict.

ART. 76. In case the owner of the expropriated land fails to consent, the expropriator shall apply to the Executive who, having heard the former, shall decide whether or not the right of way should be granted. If granted, he shall fix the use and extension thereof, the material conditions of its creation, and the indemnity which should be paid to the owner of the expropriated land.

ART. 77. The decision of the Executive authorizing the creation of the right of way shall be considered as final unless objection is made within thirty days.

ART. 78. If during the period mentioned the owner of the expropriated land expresses his non-conformity, the Executive may authorize the execution of the works necessary for the performance of the servitude, after the owner of the petroleum claim has furnished a guaranty to cover the damages and injuries which may be occasioned.

ART. 79. In urgent cases, such as those mentioned in Articles 11 and 12, the Executive may authorize indispensable works without the previous knowledge of the owner of the expropriated land, nor the deposit of the guaranty mentioned in the preceding article, but with the express condition that the interested party

shall be notified immediately and that the deposit of the guaranty shall be made during the ten days subsequent to such authorization.

ART. 80. The owner of the service land shall be notified of the decision mentioned in Articles 78 and 79, and shall enter an action through judicial channels within the period of thirty days; but should he not do so, the servitude will be considered as definitely constituted, and the guaranty shall be ordered withdrawn.

ART. 81. Should the Executive decide that the servitude should not be constituted, or that it should be constituted under terms different from those requested, the interested party may demand the same through the courts, during the period of thirty days, after which time he shall lose that right.

ART. 82. In authorizing or refusing the constitution of servitudes, the Executive shall be governed by the provisions of the civil code of the Federal District as regards matters not expressly stipulated in this law or in the regulations thereof.

ART. 83. The extension of servitudes already constituted shall be subject to the rules prescribed for their creation.

ART. 84. When condemnation proceedings conform to the provisions of this law, and an agreement cannot be reached with the owner of the surface land, the petitioner may apply to the Executive, who having heard the former, shall render decision after receiving the testimony of the experts and the required data.

ART. 85. If the owner of the land resists occupation the owner of the petroleum claim may apply to the Executive, to the end that he be given immediate possession of the land covered by the decision.

ART. 86. The owner of the condemned land, or his successor or assigns, shall have the right, during the period of one year, of redeeming the condemned land:

- I. When the condemnation was authorized because of a specified work, and the same has not been commenced during the aforesaid period;
- II. When the condemned land is used for purposes other than those stipulated in the condemnation, such as for agricultural or industrial purposes; and
- III. When the petroleum concession upon which the condemnation was based expires.

ART. 87. The regulations shall specify the form of procedure when the owner of the surface land is unknown or uncertain.

CHAPTER V.—SUITS, PENALTIES AND VARIOUS DISPOSITIONS

ART. 88. The Federal courts have jurisdiction over suits based on the following matter:

- I. Oppositions to denunciations, or the issuance or rectification of titles to petroleum claims;
- II. Nullity of titles to petroleum claims;
- III. Condemnation for the purpose of petroleum exploitation;
- IV. Right of passage, pipe line right of way and other servitudes;
- V. Crimes committed by infraction of this law; and
- VI. Crimes endangering the lives of workmen engaged in the petroleum exploitation, and inhabitants of the environs.

ART. 89. In cases covered by Clauses I, II and IV of the preceding article, the jurisdiction shall be determined by the location of the petroleum claim involved.

ART. 90. In suits over condemnations, jurisdiction shall be determined by the location of the condemned land.

ART. 91. In the cases mentioned in the two preceding articles if, because of its location, the claim pertains to more than one jurisdiction, the plaintiff may select whichever of the judges involved that he may desire.

ART. 92. In suits over oppositions referred to in Clause I of Article 88, the opposer or whoever has requested the rectification shall always be the plaintiff. The period allowed for entering an action shall be thirty working days, counted from the date of the adjustment meeting referred to in Article 39.

ART. 93. If the period mentioned in the preceding article expires without an action having been begun, the judge shall declare the opposition unjustified, returning the administrative documents to the corresponding party.

ART. 94. The opposer may only base his objections on the reasons he has expressly alleged at the proper time and which are stated in the administrative documents as remitted to the judicial authorities.

ART. 95. In the case of opposition referred to in Article 37, the presumption shall be in favor of the denouncer who has entered the action.

ART. 96. The opposition shall be substantiated in the form of a collateral issue in accordance with Article 556 and subsequent articles of the Federal code of civil procedure and the amendments and reforms thereof.

ART. 97. In cases of condemnation the judges shall use the measures of judicial compulsion authorized by the Federal code of civil procedure, to establish the rights which according to this law correspond to the concessionaires of petroleum claims, pipe lines, storage stations and refineries.

ART. 98. The crimes referred to in Clauses V and VI of Article 88 shall be punished in accordance with the Federal laws covering procedure in force.

ART. 99. In all suits referred to in the articles which precede this chapter, the public prosecutor shall be heard, who shall see that procedures are not unduly delayed, to which end he shall procure that due process of law be given. In the said suits the public prosecutor shall take into consideration the recommendations made by the Department of Industry, Commerce and Labor.

ART. 100. The periods of time indicated in this law and the regulations thereof, unless otherwise provided, shall begin on the day following the notification or the institution of the respective procedure, the day of expiration also counting.

Sundays or national holidays shall not be counted.

ART. 101. The provisions of the civil code of the Federal District covering common property are applicable to petroleum claims as regards all matters not covered by this law.

ART. 102. The following shall be considered as commercial acts subject to the provisions of the commercial code as regards matters not expressly covered by this law:

I. Oil companies;

II. Contracts covering the transfer, hypothecation and exploitation of petroleum claims; and

III. Contracts made regarding the production of petroleum claims.

ART. 103. The value assigned to a petroleum claim in the act of incorporation of an oil company, shall be verified by expert appraisal, upon the responsibility of the expert appraiser.

ART. 104. Suits arising from the contracts referred to in Article 102 shall be tried before the qualified judges of the common courts, in accordance with the provisions of the commercial code.

ART. 105. The offices of commercial registry of the states, Federal District and territories shall maintain special register books in which the following shall be recorded:

I. Titles covering petroleum concessions;

II. Titles constituting servitudes;

III. Public instruments covering agreements to transfer petroleum claims;

IV. Public instruments and judicial or administrative sentences and decisions which confer or affect the rights of the concessionaires of petroleum claims, or by which property rights thereon are constituted or affected; and

V. Public instruments and judicial or administrative sentences or decisions which affect the exploitation of petroleum claims, pipe lines, storage stations or refineries.

ART. 106. The register mentioned in the preceding article shall be maintained in the office having jurisdiction over the petroleum claim. If the claim lies under various jurisdictions, the registry shall be maintained in all of the corresponding offices.

ART. 107. Titles constituting servitudes shall be recorded in the registry offices having lawful jurisdiction over the service land.

ART. 108. The record referred to in Clause III of Article 105 shall be effective as regards third parties, during the period of time fixed in the contract, but which period shall not be greater than six months counting from the date of recording, even though the period allowed for the fulfilment of the agreement be longer.

ART. 109. When the document which is to be recorded is filed at an office within thirty days after the date of the instrument or of the respective decision

or sentence, the registry shall take effect from the date of the document. If filed after the expiration of the said thirty days, the registry shall only take effect from the date of filing. The registry of public documents proceeding from foreign countries shall take effect from the date on which the certified copy of the protocalization is filed in the corresponding office.

ART. 110. The Executive may impose, as a corrective measure, the fines permitted by Article 21 of the Federal Constitution for violations of the regulations of this law and shall consign those who should be punished for the commission of crimes to the proper judge.

ART. 111. Any agent of the petroleum bureau guilty of malfeasance in the discharge of his duty shall be suspended and disqualified, in accordance with the penal code, and shall be punished by imprisonment of from six months to one year.

ART. 112. If a denouncer or an opposer should be implicated in any case of malfeasance as mentioned in the preceding article, the penalties established therein shall be imposed on the agent, and the said denouncer or opposer shall be punished by a lesser fine and imprisonment. In cases of bribery the rule of accumulation of penalties shall be applied.

ART. 113. Those guilty of illegally exploiting any of the substances mentioned in Article 1 of this law shall suffer the following penalties:

- I. If the exploitation be made on free ground the penalties shall consist of from one to two years imprisonment and a fine of from 2,000 to 5,000 pesos;
- II. If the exploitation be made in denounced or titled claims, the penalties shall consist of those imposed by the preceding clause, without prejudice to the indemnity corresponding to the denouncer or concessionaire of the claim; and
- III. Should a denouncer exploit a claim before obtaining title thereto, he shall suffer the penalty of disqualification for the acquisition of title to the said claim, and shall forfeit to the nation the capital invested.

ART. 114. The penalties established by Article 497 of the penal code shall be applied to those who destroy or change the location of monuments marking the surface boundary lines of petroleum claims.

ART. 115. When not otherwise provided, the crimes committed by the infraction of this law, and the civil responsibilities arising therefrom, shall be subject to the penal code of the Federal District.

ART. 116. When through heritage or by a court judgment in payment of a debt, a foreigner acquires possession of or property rights to the concession of a petroleum claim, pipe line, storage station or refinery, the judicial authorities, previous to granting judgment or recognizing the heritage, shall demand from the said foreigner the certificate to the effect that he has complied with the requisites of Article 27 of the Federal Constitution.¹

ART. 117. When through heritage or by court judgment a foreign corporation acquires possession of or the concession to a petroleum claim, the judge shall demand the incorporation of the said company as a Mexican company, previous to adjudging the property or recognizing the heritage.

ART. 118. The Executive of the Union shall procure that properties and acquired or possessed rights shall not be secured in contravention of the precepts of Articles 116 and 117.

ART. 119. In the case of *pro iudicio* lands treated of in Article 21, should any of the coowners fail to pay, after being notified to do so, his corresponding proportion of the taxes or of the expenses incidental to the obligations imposed by the concession, any other coowner may make such payments thereby increasing his proportion of the land. Should several coowners petition to be allowed to make the payments of the defaultant, the laws of chance shall decide who make the said payments.

ART. 120. The Department of Industry, Commerce and Labor may at any time send its inspectors to visit the petroleum claims and the installations thereof used directly in the exploitation operations. The objects of such visits shall be the following:

- I. To determine if the regulations and provisions covering exploitation are being duly complied with;

¹This refers to renunciation of citizenship as regards property rights.—TRANSLATOR.

- II. To obtain scientific and statistical data regarding the petroleum industry, and such further data as the public interests may demand; and
- III. To determine the existence or non-existence of invasions of free ground and also of another claim on petition of the authorized party.

ART. 121. The Department of Industry, Commerce and Labor may order the suspension of petroleum works which do not conform to the regulations covering exploitation, based on the adverse report of the inspector, or information furnished by the local authorities. The order of suspension shall remain in effect as long as the basic cause therefor exists.

ART. 122. In urgent and serious cases, suspension may be decreed on petition of the Governor of the State or of the municipal president, without previously fulfilling the requisites established in the preceding article.

ART. 123. In all cases of suspension of works not based on the report of an official inspector of the Department of Industry, Commerce and Labor, the latter shall order that a visit of inspection be made at the earliest possible moment.

ART. 124. The Department of Industry, Commerce and Labor shall determine the number of agencies of the petroleum bureau and the jurisdiction of each according to the volume of work involved.

ART. 125. When the concessionaire of a petroleum claim furnishes satisfactory proof to the Department of Industry, Commerce and Labor of the loss of his original title, a duplicate title may be issued at his expense, in which the reason for its issuance and the cancellation of the original title shall be expressed.

TRANSITORY ARTICLES

First. This law will take effect one month after its promulgation.

Second. Those lands in which capital has been invested prior to May 1, 1917, for the purpose of exploration or exploitation of petroleum, are not denounceable nor subject to the relative precepts of this law. To that effect, the holders of such lands (owners or lessees) shall substantiate their rights of possession, before the Executive, within a period of three months counting from the date of enactment of this law.

Claims owned in fee shall pay the territorial and production taxes imposed by the decree of July 31 of this year, or those which may hereafter be established under the denomination of rents and royalties, on the claims to which titles are issued in conformity with this law.

Claims held under lease contracts shall pay, during the life of such contracts, the taxes fixed by the said decree of July 31 of this year. This privilege in favor of the lessees will terminate upon the expiration of their lease contracts, which latter may not be modified or renewed, even though the power of the contracting parties to do so may be stipulated therein. Upon the expiration of the contracts, the exploiters may, during the three following months, obtain titles in their favor to the respective claims, upon payment of the title tax.

The exploiters of claims covered by this article must comply with the regulations and other provisions of exploitation which govern titled petroleum claims.

Third. Owners of land, or lessees holding contracts made prior to May 1, 1917, who have not invested capital in petroleum exploration or exploitation operations, shall enjoy during one year counting from the day on which this law is enacted, the right of preference to denounce the underlying claims, providing they substantiate their rights before the Executive during the period of three months following the second date mentioned. When a single piece of ground is denounced by various lessees, title shall be issued to that lessee holding the latest contract.

Fourth. For the purpose of substantiating their rights covering oil lands, referred to in the two preceding articles, the interested parties may use the certified documents which have been filed previously with the Department of Industry, Commerce and Labor.

Fifth. Those owners or lessees who have invested capital in petroleum exploration or exploitation operations, after the first of May 1917, and previous to the enactment of this law, may obtain titles in their favor to the underlying petroleum claims upon payment of the title tax, and upon furnishing proof within the period of three months from the date this law is enacted, of having had authorization from the Executive to effect the operations mentioned.

Sixth. All denunciations of petroleum claims filed in the agencies or in the Department of Industry, Commerce and Labor, and dispatched in accordance with the provisions contained in the decree of August 8 of this year, are valid.

File No. 812.512/2106

*The Acting Secretary of State to the Ambassador in Mexico
(Fletcher)*

No. 799

WASHINGTON, December 13, 1918.

SIR: The Department acknowledges the receipt of your No. 1337, of August 21, 1918, with which you enclosed a copy of a translation of note No. 2772 of August 17, 1918, from the Foreign Office, replying to your Embassy's note of April 2, 1918, protesting against the so-called petroleum decree of February 19, 1918.

You stated that *amparo* proceedings have been instituted in the courts of Mexico against the recent petroleum decrees; that you have been informed by a representative of the American oil companies that the proceedings are progressing satisfactorily, and that there is hope of obtaining what would amount to a preliminary injunction in our procedure, and that the issuance of the decree of August 12, 1918, has relieved the situation and removed the danger of arbitrary action against the companies by the Mexican Government.

You further stated that a new Congress would convene on the first of September, and that it would not be surprising if an entirely new petroleum law were proposed by the Government almost immediately; that should the decision of the courts uphold the contention of the Mexican and foreign companies and citizens as against the Government, the troublesome question of enforcing retroactively Article 27 of the Constitution would be removed and the way would be open for the Mexican Government to proceed along more moderate and more just lines with the so-called nationalization of petroleum producing lands.

You added that at any rate an acute crisis in the petroleum matter had been avoided and that the indications were that this difficulty, which seriously threatened the good relations between Mexico and the United States, would be adjusted by peaceful and legal methods.

The Department is pleased to learn of the improvement in the situation, which seems to render unnecessary at the present time further representations in the way of protest to the Mexican Government.

However, the Department deems it advisable at this time to take notice of certain statements contained in the note of the Foreign Office copied with your despatch, both because silence on the part of this Government with respect to some of these statements might lead the Mexican Government to suppose, contrary to the fact, that this Government was disposed to acquiesce therein, and also since it seems entirely possible that the Mexican Government is still bent upon putting into effect by Executive decree, or by legislation, the confiscatory features with respect to oil-bearing lands, of Article 27 of the Constitution and the petroleum decree of February 19, 1918.

Therefore, you will please take suitable occasion to reply to the Mexican note of August 17, 1918, substantially as follows:

The Government of the United States has noted with pleasure that, as anticipated by it, the Mexican Government has the intention to conciliate foreign interests and that it regards American interests as worthy of every protection, recognizing that they contribute to the industrial development of the Republic of Mexico, particularly in the petroleum industry. The

Government of the United States heartily reciprocates the expressed desire of the Mexican Government that the two nations live in peace, friendship and good relations, and welcomes the statements that the Mexican Government will respect the dignity and the interests of foreigners and has no idea of enacting legislation designed to molest a friendly country or its citizens.

With these views animating the Mexican Government and their hearty reciprocation by the Government of the United States, it would seem that there should be no difficulty in adjusting in an amicable fashion any matters of difference between the two Governments.

The Government of the United States is not unappreciative of the disposition of the Mexican Government to translate on its part these friendly sentiments into action by the issuance of the decree of August 12, 1918, which tends to remove the danger, theretofore feared by the United States, of arbitrary proceedings against foreign oil interests, and the Government of the United States is encouraged by this action to believe that the entire petroleum question, as it affects American interests, will at a not distant date reach an adjustment equitable to all parties concerned.

While the present situation with respect to the matters which have been in difference between the Mexican Government and the petroleum interests, as the Government of the United States understands the matter, is in an orderly process of developing itself with a strong possibility that the outcome will be a satisfactory adjustment between the interested parties, the Government of the United States considers that it would be appropriate for it to state briefly at this time, with the object of clarifying the situation, and of avoiding all possibility of misunderstanding, its views with regard to certain allusions and statements contained in the note of the Mexican Foreign Office, No. 2772 of August 17, 1918.

The Government of the United States regrets to observe the critical attitude which the Mexican Government has assumed towards the efforts made by this Government through diplomacy to protect its citizens in Mexico from what appeared to it to be imminent spoliation of their vested rights in Mexico, and cannot but believe that this attitude is based on a partial understanding of the causes and grounds leading this Government to express its views in its note to the Mexican Government of April 2, 1918. In justice to itself, the United States feels that it is entitled to point out that its diplomatic interposition in this case was consequent upon and flowed directly from the policies and actions of the Mexican Government itself, notwithstanding the unremitting efforts of the United States to explain informally the dire effects of these measures upon American interests in the petroleum fields. Moreover, the representations which the Government of the United States had made with respect to the Mexican petroleum decree of February 19, 1918, were not in any way inspired, as the Mexican Government appears to suppose, by the desire to obtain undue protection to American citizens.

and American interests, but solely to obtain for them that protection to which they seem to be entitled under the generally accepted rules and principles of international law. The purpose of the Government of the United States was to call the attention of the Government of Mexico, with such earnestness as the critical situation of American interests seemed to demand, to what seemed to the Government of the United States an unwarranted course of action, against which ordinary legal proceedings might fail to provide a sufficient and timely remedy, with the confident belief that upon consideration of the views of this Government, the Mexican Government would appreciate the condition in which such American citizens would be placed by the action apparently contemplated against them, and that the Mexican Government would, therefore, take such prompt steps as would relieve the condition and render unnecessary any further controversy over the matter. The Mexican Government's mistaken views of the attitude of the Government of the United States in these respects is believed to have been brought about by the conception which the Mexican Government asserts that it has of the duties and obligations of a state to foreigners in its country. The Mexican Government appears to be of the opinion that so long as a state does not discriminate against foreigners and in favor of its own citizens, it is entitled to mete out to foreigners such treatment as it may desire; that foreigners must submit to the treatment, and that their governments have no right to interposition to protect them against it, should it be unduly onerous and unjust, until local remedies have been exhausted in vain.

Applying this view to the petroleum situation, the Mexican Government seems to contend that the decree regulating ownership of mineral deposits is a matter of internal and territorial sovereignty applicable to Mexican citizens and foreigners alike and therefore that there is afforded no rightful basis for interposition by the Governments of interested foreigners, even though the result of the decree should be, as was apparently its purpose, to deprive such foreigners of property rights which they had legitimately acquired under the laws of Mexico.

The Government of the United States believes that this contention of the Mexican Government and the basis upon which it seems to rest find no sound foundation in the principles of the law and practice of nations which in the past have been generally accepted by the governments of the world, and that it could not, therefore, be fairly called upon to recognize or acquiesce in them in opposition to the usage of nations. The Government of the United States is firmly of the opinion that the great weight of international law and practice supports the view that every nation has certain minimum duties to perform with regard to the treatment of foreigners, irrespective of its duties to its own citizens, and that in default of such performance, it is the right of the foreign government concerned to enter protest. Not the least of these duties, as the Government of the United States believes, is to refrain from measures resulting in confiscation of the vested property rights of foreigners, ac-

quired in good faith and in accordance with the laws of the country in which the property is situated. While the Mexican Government may see fit to confiscate vested property rights of its own citizens, such action is in equity no justification for the confiscation of such rights of American citizens and does not estop the Government of the United States from protesting on behalf of its citizens against confiscation of their property. To resist unjust encroachment upon their rights by the governmental agencies of their country, Mexican citizens are armed with a weapon which they may presumably use in addition to judicial remedies. I refer to the orderly processes by which the free people of a democracy may assert their will in respect of governmental policies. But Americans in Mexico have no such recourse. Aside from judicial remedies, they are limited to an appeal for the protection of their governments. If they are to be denied that right of appeal they are clearly placed in a position of disadvantage as compared with citizens in Mexico who have both political and legal remedies at their command to right their wrongs. If the right of protection of this Government is to be denied then one of the means of obtaining that parity of treatment to which the Mexican Government admits Americans are entitled, is plainly destroyed.

The United States is ready to admit that legal remedies should as a rule be tried by its citizens to obtain reparation for or relief from wrongful actions against their property, and it is understood that the American interests affected by the petroleum decree are resorting to such remedies, but the United States cannot admit that diplomatic representation is always premature if made on behalf of its citizens before they have exhausted their legal remedies in the courts of Mexico. If it were necessary to substantiate this proposition, many instances of diplomatic action, before or during legal proceedings, might be cited from the practice of nations, in case of irreparable damage or highly arbitrary action, particularly where it is in the power of the Government to prevent or suspend either. The promulgation of the before-mentioned provision of Article 27 of the Mexican Constitution, followed by the issuance of the so-called petroleum decrees indicated a settled purpose of the Mexican Government to put in execution this provision of the Constitution, without opportunity for full and fair consideration, and without regard to the legitimately acquired rights of American citizens. Such action might have been irreparable in its results, and certainly would have been arbitrary, and within the power of the Mexican Government to prevent or modify as subsequent events have shown. In the circumstances, friendly representations, without prejudice to the prosecution of legal remedies and in the interest of avoiding misunderstanding, can hardly be said to be out of place. On the contrary, the Government of the United States believes that happy results are often the outcome of diplomatic interposition, which therefore serves the best of ends, in the way of averting possible difficulties of a serious nature. Moreover, the argument of the Mexican Government as to the necessity of a resort to its courts by foreigners affected by the decree

in question, prior to diplomatic interposition, would have more weight did the decree relate alone to matters of taxation, which is far from being the case, although a casual reading of the note under acknowledgment might lead to that conclusion. As a matter of fact, the immensely important feature of the decree is the attempt made therein to carry out the provisions of Article 27 of the Constitution for the confiscation of the petroleum-bearing subsoil, and this was thoroughly brought out by the Embassy's note of April 2, 1918, in which it was said, with reference to the taxation feature of the decree, that the Government of the United States reserved opinion on the question as to whether such taxation was confiscatory in effect. Furthermore, in mitigation of what this Government regards as the plainly confiscatory feature of the decree, the note under acknowledgment makes reference to the guaranty established by Article 22 of the Constitution. This Government is at a loss to understand this reference to Article 22 as it would not seem to modify the effect of the decree in question, since the confiscation forbidden by that article of the Constitution appears to relate to punishment for criminal offenses. This cannot, therefore, be regarded as modifying the provision of the Mexican Constitution clearly applicable to this case, namely, the following clause of Article 27:

Private property shall not be expropriated except for reasons of public utility and by means of indemnification.

Indeed this provision seems to contemplate the establishment of judicial procedure for the expropriation of private property.

Therefore, the Government of the United States finds itself quite unable to accept the point of view of the Mexican Government, in respect to parity of treatment of Americans and Mexicans, and to diplomatic interposition in behalf of the former.

This communication should not be concluded without reference to the statement in the note under acknowledgment as to the inconsistency which the Mexican Government indicates that it finds between the action of the Government of the United States in respect to the petroleum controversy, and the utterances and ideals of the President of the United States. Regarding this it may be said that it is believed that the Mexican Government will confess itself unable to find any statement of President Wilson, which by expression or implication, pronounces against the exercise of the right of diplomatic interposition, upon suitable occasion therefor. The President has drawn a sharp contrast between the policy of armed intervention and that of diplomatic interposition. He has, on numerous occasions, stated in effect that he would not countenance armed intervention in the affairs of another State for the purpose of gratifying selfish interests, and the composite statement as presented by the Mexican Minister of Foreign Affairs clearly comprehends such a situation. But the President has never stated that he would forego the right of diplomatic interposition in behalf of American citizens, a distinctly friendly method of supporting legitimate national interests in order to avoid injustice. On the contrary, the President had declared for diplo-

matic interposition nowhere better than in the following quotation from his address of January 29, 1916:

America has not only to assert her right to her own life within her own borders; she has also to assert her right to equal and just treatment of her citizens wherever they go.¹

The Government of the United States asks no more than "equal and just treatment" for its citizens, and therefore cherishes the sincere hope that the Mexican tribunals whose prerogative it may be to pass upon the legal questions involved in the so-called petroleum decree will in the proceedings which it is understood have been initiated and which may hereafter be commenced, protect the legitimately acquired rights of American citizens. Thus the controversy may happily be ended. However, should this hope unfortunately be disappointed, the Government of the United States must reserve to itself the consideration of the questions of interesting itself further on behalf of American citizens concerned in this important and serious matter.

I am [etc.]

FRANK L. POLK

File No. 812.032/40

*The Acting Secretary of State to the Ambassador in Mexico
(Fletcher)*

[Telegram]

WASHINGTON, December 14, 1918, 3 p. m.

1717. Your 1666, November 4, 10 a. m. Report whether, in your opinion, protest should not now be made. Department does not wish to allow matter proposed legislation to stand as acquiesced in by United States.

POLK

File No. 812.032/41

The Ambassador in Mexico (Fletcher) to the Secretary of State

[Telegram]

MEXICO, December 16, 1918, noon.

1817. Your No. 1717, December 14, 3 p. m. In view of recent developments and failure of Mexican Government to meet fully requests of American oil companies in the petroleum law as presented to Congress, and also in view of the fact that the report of the committee of Congress to which was referred the request of the Executive for approval of his exercise of the special powers in fiscal matters granted by Congress on May 8, 1918, on December 10 recommended that the Congress approve his petroleum decrees, I believe protest might now be made in order to keep record clear but it will not likely prevent approval by Congress of the presidential decrees.

¹ An address of President Wilson delivered at Pittsburgh, Pa. H. Doc. No. 803, 64th Cong., 1st sess., p. 18.

Department will recall that no reply has been made to Foreign Office note replying to my note of April 2. Please indicate terms of protest to be made and whether you wish to make reference therein to proposed petroleum law covered in my mail despatches numbered 1627¹ and 1639.

FLETCHER

*The Acting Secretary of State to the Ambassador in Mexico
(Fletcher)*

[Telegram]

WASHINGTON, December 21, 1918, 7 p. m.

1740. Your 1817, December 16, noon. In its No. 799, December 13,² Department sent you instructions for reply to Foreign Office note answering your note April 2.

Protest against proposed bill approving petroleum decrees may be made simultaneously with representations pursuant to such instructions and in terms thereof. Reference need not be made to proposed petroleum law recently introduced in Congress.

POLK

File No. 812.032/42

The Ambassador in Mexico (Fletcher) to the Secretary of State

[Telegram]

MEXICO, December 25, 1918, noon.

1858. Chamber yesterday approved in general the President's exercise of his special powers in finance with the exception of decrees relative to public charity and import tax on paper specifying duties in kind. Discussion of particulars postponed until next week. Mail despatch mentioned in your 1740, December 21, 7 p. m. has not been received.

FLETCHER

File No. 812.032/43

The Ambassador in Mexico (Fletcher) to the Secretary of State

[Telegram]

MEXICO, December 26, 1918, 2 p. m.

1860. No. 1858, December 25, noon. Department's instruction No. 799 received to-day. Does the Department wish me to add to the Department's draft of the note to the Foreign Office a short paragraph stating that the United States Government has learned that the Mexican Congress has been asked by the President to ratify petroleum expiration [sic] and that should this be done the United States Government wishes to renew its protests heretofore made in regard to the petroleum decrees and legislation and to make clear its non-acquiescence therein on the grounds already communicated to the Foreign Office, or shall this be done in a separate communica-

¹ Not printed.

² Ante, p. 784.

tion to be sent simultaneously, or shall it be done verbally? I believe representations should be made separately. Please instruct.

FLETCHER

File No. 812.512/2240

The Ambassador in Mexico (Fletcher) to the Secretary of State
[Telegram]

MEXICO, December 27, 1918, 11 a. m.

1862. *Universal* to-day states that Cabinet meeting yesterday decided to extend until the proposed new petroleum law has been approved by Congress the period fixed for the preferential denouncement of petroleum lands by owners thereof; this period was to have expired on December 31. Other papers have conflicting accounts of what occurred in the Cabinet meeting and situation is not quite clear.

FLETCHER

File No. 812.032/43

The Acting Secretary of State to the Ambassador in Mexico (Fletcher)

[Telegram]

WASHINGTON, December 27, 1918, 5 p. m.

1752. Your 1860. Department approves of making urgent representations in the sense you outline in a separate communication to be sent to Foreign Office simultaneously with communication to be submitted in compliance with Department's instruction, 797.

POLK

File No. 812.032/46

The Ambassador in Mexico (Fletcher) to the Secretary of State
[Telegram]

MEXICO, December 31, 1918, 11 a. m.

1872. The Mexican Congress has now finally approved the use by the Executive of his exercise of special powers in finance with the exception of the paper decree and has granted him special powers to raise or lower import and export duties as in his option conditions may warrant.

FLETCHER

File No. 812.512/2253

The Ambassador in Mexico (Fletcher) to the Secretary of State
No. 1692

MEXICO, December 31, 1918.

SIR: For the information of the Department I have the honor to transmit herewith a copy of my note No. 823 of December 28, 1918, to the Mexican Foreign Office, which note was sent in compliance

with the Department's instruction No. 799 of December 13.¹ There is also enclosed a copy of my note No. 824 of December 28, to the Mexican Foreign Office, which was sent at the same time as the note above referred to and based on the Department's telegraphic instruction No. 1752, of December 27, 5 p. m., and my telegram No. 1860, of December 26, at 2 p. m. Both of these notes refer to the petroleum decrees.

I have [etc.]

HENRY P. FLETCHER

[Enclosure]

The American Ambassador (Fletcher) to the Mexican Acting Secretary of State for Foreign Affairs (Pérez)

No. 824

SIR: In connection with the various petroleum decrees which have been issued by the Executive in exercise of the special powers granted it by the Mexican Congress on May 8, 1917, and which have been the subject of diplomatic representations on the part of the United States Government and of prolonged negotiations between representatives of the American oil companies and of the Mexican Government, as well as proceedings now pending in the Mexican Courts, I have the honor to inform you that my Government has learned that the Mexican Congress has been requested by the Executive to ratify and confirm said decrees and that preliminary steps to that end have been taken in the Chamber of Deputies.

In view of this I have been instructed urgently to represent to the Mexican Government that in the event of the ratification by the appropriate legislative branch of the Government of the said petroleum decrees, etc., the United States Government wishes to renew the protests heretofore made in regard to these decrees and legislation and to make clear its non-acquiescence therein on the grounds already communicated to the Mexican Government.

Accept [etc.]

[File copy not signed]

CLAIMS OF AMERICAN CITIZENS AGAINST MEXICO

Institution of a Claims Commission; Attitude of the United States and other Foreign Governments

File No. 412.00/55

The Ambassador in Mexico (Fletcher) to the Secretary of State

No. 622

MEXICO, November 27, 1917.

SIR: With reference to the Embassy's despatch No. 596 of the 7th instant,² concerning a measure which was then under consideration in the Treasury Department to create a commission to pass upon claims for damages to persons and property growing out of the Mexican revolution from 1910 to 1917, I have the honor to report that the commission referred to, consisting of four Mexican citizens to be appointed by the President and to be under the jurisdiction of the Secretary of the Treasury, was provided for in a presidential decree issued November 24, to go into effect on that date.

The principal features of the decree are as follows:

The procedure to be observed in investigating a claim is to be prescribed by the Executive at a later date, but in accordance with certain basic principles mentioned in the decree. No claim will be consid-

¹ Enclosure not printed. See the instruction, *ante*, p. 784.
² Not printed.

ered for profits not made, but which would have been made had it not been for the condition of war in the country.

A claimant, in presenting his claim to the commission, surrenders the right to have it passed upon by the courts.

A foreign claimant is expected to accompany his claim with proof of foreign citizenship, and if he fails to do so, he will be deemed a Mexican and will be considered as having surrendered his right to present his claim through the usual diplomatic channels.

Stock companies organized under the laws of the Republic will be considered as Mexican, so far as their claims are concerned, although some or all of the stockholders are foreigners.

If a foreigner does not agree with the finding of the commission he may present his case either personally or through diplomatic channels, provided he has established the fact that he is a foreigner. The claim will then be submitted for arbitration to three persons, one to be selected by the President, one by the diplomatic representative of the nation to which the claimant belongs, and the third by the other two thus selected, or if they cannot agree upon a third, he will be selected by the President from among the citizens of a nation which has no claims growing out of the revolution. The arbitrators may not have consular or diplomatic character. The decision of these arbitrators may not be appealed from.

The decree further provides that a special law will prescribe the manner in which the funds for settling these claims are to be provided.

The text and translation of the decree will be forwarded to the Department as soon as it has been published in the *Diario Oficial*.

I have [etc.]

HENRY P. FLETCHER

File No. 412.00/56

Decree of November 24, 1917, creating a commission to pass upon claims for damages to persons and property growing out of the Mexican revolutions¹

[Translation]

I, Venustiano Carranza, Constitutional President of the United Mexican States, to the people thereof make known:

That in use of the extraordinary powers in the Department of the Treasury conferred upon me by the Congress of the Union, I have seen fit to decree the following:

ARTICLE 1. In accordance with the decree of May 10, 1913,² issued in Monclova, Coahuila, by the citizen First Chief of the Constitutional Army, a commission under the Department of the Treasury is-established in Mexico City to handle claims for damages to persons or property, resulting from the revolutionary movements in the Republic from 1910 to 1917.

ART. 2. Said commission shall be composed of a president and four members, who shall be Mexican-born citizens, and who shall be ap-

¹ *Diario Oficial*, November 28, 1917. Transmitted to the Department by the Ambassador in Mexico in despatch No. 634 of December 5, 1917 (not printed).

² *Foreign Relations*, 1913, p. 955.

pointed by the President of the Republic. The commission shall appoint the secretaries and personnel required.

ART. 3. The proceedings to be followed in the handling of claims shall be in accordance with the rules and regulations which, in accordance with the following principles, shall be issued opportunely by the Executive:

A. The commission shall receive all claims which may be presented, provided that the claimants comply with the requirements established by the regulations. After receiving the claim, the commission shall examine it carefully, and if in its opinion it fulfills the basic requirements of this law, it shall declare the claim accepted.

B. The commission shall, without delay, request of the appropriate authorities all data which they consider necessary with a view to deciding whether the claim is just or unjust, or to fix with proper accuracy the amount of indemnification to be paid. During the course of these proceedings, such proofs as the interested parties may consider pertinent shall be received, but it should be understood that whatever the nature of the proceedings relative to the presentation of testimony may be, the final result of same shall be submitted to the commission by means of documents.

C. Once the proofs and data referred to in the preceding paragraph shall have been submitted, the file shall be shown to the interested party, in order that he may submit in writing a statement of the rights he claims to possess.

D. The commission, based on the evidence on file, shall discuss and vote upon the claim, and render a proper decision.

E. The interested party shall be notified of the judgment, and he shall state in writing his conformity or inconformity thereto.

F. The file shall then be placed before the President of the Republic through the Department of the Treasury, for final decision, excepting in the case of foreigners who may have indicated their inconformity with the judgment rendered by the commission, in which case the provisions of Article 13 of this law shall be followed.

ART. 4. Claims shall be presented in writing, in Spanish, together with the largest possible number of proofs which will serve to demonstrate that the damages actually occurred and that the amount claimed is a just one. The name of the individual or firm, nationality, and residence of the claimant shall be shown; the places and dates of the occurrences upon which the claim is based, together with the names of those who took a part therein, as well as the nature of the damages and the amount of the indemnification in national gold which is claimed, shall be indicated with the greatest possible precision.

ART. 5. The commission shall accept only such claims as are based:

- I. On damages caused by revolutionary forces or recognized as such by the legitimate governments which may have been established in the Republic upon the triumph of the respective revolution.
- II. Those caused by the forces of the said governments in the performance of their duties and during the struggle against rebels, and
- III. Those caused by the forces of the so-called Federal Army up to the time of its dissolution.

ART. 6. Those subject to the civil responsibilities referred to in Transitory Article 15 of the Political Constitution of the United Mexican States, promulgated on the 5th of February of the present year, may not benefit by the provisions of this law. In such cases a hearing shall be given to the Department of Gobernación.

ART. 7. The right to present claims shall expire within three years from the date of this law. Claims arising from the revolution begun in 1910, which may have been submitted to the consulting commission established by virtue of the law of May 31, 1911, shall be considered as having been presented within the period indicated, and shall be handled by the new commission, the files being taken in their present state, and the proceedings thereon being continued in accordance with the provisions of this law and its regulations.

ART. 8. Claims may be based on the destruction of private property, the requisitioning of funds, property, animals or merchandise, or for damages of any other nature to persons or properties, unless those interested should previously have obtained an indemnity to cover; but no claim may be presented for indemnities to cover profits not made but which would have been made had it not been for the condition of war in the country.

ART. 9. When the claim, in the opinion of the party interested, does not exceed 5,000 pesos, and the commission is convinced that the damage actually occurred, but lacks information upon which to make an exact estimate of the indemnity to be paid, it may fix an arbitrary amount based on the financial and social condition of the claimant and on other circumstances connected with the case.

ART. 10. It is understood that the fact that the claimant applies to the commission in the administrative form established by this law precludes him from initiating claims proceedings in the courts.

ART. 11. Foreign claimants shall attach to their claims proofs relative to their nationality; those who do not do so shall be considered as Mexicans with reference to the application of the provisions of this law, and shall in consequence thereof be considered as having surrendered their right to present their claims later through the usual diplomatic channels.

ART. 12. Stock companies organized under the laws of the Republic shall be considered as Mexican, so far as their claims are concerned, although some or all of the stockholders are foreigners.

ART. 13. Foreign claimants who may have proven themselves to be such, and who are not in conformity with the findings of the commission, may present their cases either personally or through the diplomatic channels.

ART. 14. The findings of the commission with regard to the claims of foreigners, which may have been objected to by the parties interested in one of the two forms indicated in the preceding article, shall be submitted for arbitration to three persons, one of whom shall be appointed by the President of the Republic, another by the diplomatic agent of the country to which the claimant belongs, and the third by the other two selected. Should these be unable to reach a decision, the third shall be appointed by the President of the Republic from among the nationals of some country which has no claims for damages growing out of the revolution. The appointment of the arbitrators shall be made in accordance with the regula-

tions governing this law, but it is to be understood that none of those selected shall have diplomatic or consular character.

ART. 15. The arbitration committees referred to in the previous article shall be organized either for the settlement of a single concrete case, or to handle all cases corresponding to claimants of a single nationality.

ART. 16. The decisions of the arbitration committees referred to in the preceding article shall be final.

ART. 17. A special law to be issued opportunely shall establish the manner in which funds shall be raised for the payment of final, approved claims, and the form of payment.

TRANSITORY ARTICLES

First. This law shall not affect in any way arrangements which may have been made with the Department of the Treasury with respect to the return of intervened or confiscated properties; nor shall it affect properties which are still intervened by the Government, until such time as the law referred to in transitory Article 15. of the Constitution is issued.

Second. This law shall become effective from the date of its promulgation.

Third. In the application of this law, all those previously issued and which are opposed thereto are hereby annulled.

I, therefore, order that this be printed, published, distributed and duly complied with.

Given in the National Palace of the Executive Power of the Mexican Union, on the twenty-fourth day of November, one thousand nine hundred and seventeen.

V. CARRANZA

File No. 412.00/58

The Chargé in Mexico (Summerlin) to the Secretary of State

No. 710

MEXICO, January 15, 1918.

SIR: With reference to the Embassy's despatch No. 687 of the first instant¹ transmitting a summary of the presidential decree prescribing regulations, etc., for carrying into effect the presidential decree which created a commission to pass upon claims for damages growing out of the Mexican revolution (see the Embassy's despatch No. 634 of December 5, 1917, for the text and translation of the decree last mentioned),² I have the honor to enclose, herewith, the text of the first-mentioned decree as published in the *Diario Oficial*, together with a translation.

I have [etc.]

GEORGE L. SUMMERLIN

¹ Not printed.

² Despatch not printed; for translation of the decree see the preceding document.

[Enclosure—Translation]

Decree prescribing regulations for the commission created to pass upon claims for damages growing out of the Mexican revolution¹

I, Venustiano Carranza, Constitutional President of the United Mexican States, to the people thereof, make known:

That, in use of the constitutional power conferred upon the Executive and in conformity with the provisions of the law of November 24 of the present year, I have seen fit to issue the following

Regulations of the law creating the claims commission.

ART. 1. The office of the claims commission shall be installed at the place designated by the Secretary of the Treasury, and shall be open to the public on working days during the same hours the remainder of the dependencies of the said Department are open.

ART. 2. The office of the commission shall, for the present, have the following personnel:

- One secretary
- One chief clerk
- One first clerk
- Two second clerks
- Two stenographers
- Three first class typewriters
- Two second class typewriters
- One office boy

The commission, upon consultation with the Department of the Treasury, may increase this personnel when its labors require.

ART. 3. The president and voting members of the commission shall receive the same salaries as do the chief clerks of Government departments; the secretary of the commission, a salary equal to that of the bureau chiefs of the Department of the Treasury; and the remaining employees, salaries equal to those paid to similar employees in the Department of the Treasury. The secretary and remaining employees to which the preceding article refers shall be appointed and removed freely by the commission.

ART. 4. The office of the commission shall be under the direct orders of the secretary, who shall confer with the president on all matters relating to the interior organization not covered by the regulations.

ART. 5. The commission shall ordinarily meet at least three times a week for the prosecution of its labors; but, by orders of its president, it shall hold regular meetings as often as the prompt and efficient dispatch of business may require.

ART. 6. The commission may not hold its meetings unless there are present at least three members and the secretary. In the accidental absence of the president, the oldest (in age) voting member of those present shall preside. The secretary may, when necessary, be substituted by the chief clerk.

ART. 7. The decisions of the commission shall be reached by the majority of votes of the members present. In case of a tie, the president, or whoever may be acting in his place, shall cast the deciding vote. The members who may not agree with the opinion of the majority shall state theirs in writing, with a statement of their reasons therefor.

ART. 8. The handling of the records, from the time a claim is accepted until a decision has been reached thereon, shall be effected by means of ruling dictated by one of the members, who shall be changed weekly from among the members of the commission, in strict alphabetical order of names.

ART. 9. The secretary shall notify the claimants or their legal representatives relative to the decisions of the commission, and of the developments regarding which they should be informed by means of communications addressed to place of residence which may have been given.

ART. 10. The requirements to be followed in order that claims may be accepted by the commission, shall be as below noted:

- I. Must be presented in writing, in the Spanish language.
- II. All necessary proofs must be submitted in order to demonstrate that the damages really occurred, and to justify the amount claimed.

¹ *Diario Oficial*, December 28, 1917.

- III. The name of the person or firm, nationality, and residence of the claimant.
- IV. In cases where the claimant does not handle his case personally, proof must be submitted of the power of attorney of the person handling same, giving his place of residence.
- If the claim is for less than 5,000 pesos, proof of legal right shall be presented by means of letter of authority signed by the one granting the power, and ratified before the municipal president of the place where extended; if the claim is for 5,000 pesos or over, proof of legal right shall be presented by means of a power of attorney drawn up before a notary.
- V. The places and dates of the occurrences giving rise to the claim, as well as the persons who may have taken a part therein, and the nature of the damages, shall be given.
- VI. The amount of the indemnity demanded by the claimant shall be shown in national gold.

ART. 11. Under the direct responsibility and supervision of the secretary, one of the second clerks shall carry a general claim register, in which shall be noted all claims received, showing clearly in different columns the date and hour the claim was presented, the name, or firm name, of the claimant, his residence and nationality, the name and residence of the legal representative in case the claimant does not handle his claim personally, the nature of the facts on which the claim is based, the date of their occurrence, and the place in the Republic where they took place, as well as the name of the member of the commission to whom the matter was referred for study. In a special column, the sense of the decision of the commission shall be opportunely noted.

ART. 12. The second clerk referred to in the preceding article shall carry, under the supervision of the secretary, a special register of the claims of foreigners who may have submitted proofs as such; in the said register shall be noted, grouped according to nationality, the name of the claimant and his legal representative, when there is such, and the amount of the claim; and in a special column shall be noted, at the proper time, a brief extract of the decision of the commission, and a note as to whether the claimant made use of the right granted in Article 13 of the law of November 14 [24], 1917.¹

This register shall be carried without prejudice to the general claim register referred to in the preceding article.

ART. 13. The secretary shall carry personally, under the supervision of the president, two registers; one in which shall be noted the names of the members of the commission who are to study each case in accordance with Article 15 of these regulations, and another in which shall be noted weekly the name of the member with whom the secretary shall consult relative to the rulings adopted with regard to the claims up to the time a decision is reached.

ART. 14. Such auxiliary books as the president may consider necessary for facilitating work may also be carried in the office of the secretary.

ART. 15. Claims shall be handled in the strict order of their receipt. To this effect, immediately upon the receipt of a claim the secretary shall examine it, and if he finds it fulfills the provisions enumerated in Article 10 of these regulations, he shall order it to be registered in the respective books; in contrary cases, he shall state to the interested party or to whoever may have presented the claim, the nature of the irregularities in form which he may find to exist, in order that when these have been eliminated the claim may be registered.

ART. 16. The office of the secretary, once a claim has been registered and the respective record opened, shall inform the voting member who may be on duty for that week, who, in turn, shall designate the member who is to study the case, such designations being made by turn among all the members of the commission, by strict alphabetical order of names.

ART. 17. The member shall proceed to study the case with a view to reporting to the commission at the first meeting following whether the claim fulfills the requirements provided for in Articles 5, 6, and 7 of the law, and shall propose the action to be taken, whether it be to rule the claim out definitely for the reason that it does not meet such requirements, or to accept it in order that it may go through the regular channels.

¹ As to the accuracy of this date, see instruction No. 470 of the Acting Secretary of State, *post*, p. 801, and note No. 4127 from the Mexican Acting Secretary of State, *post*, p. 815.

ART. 18. Once a claim is accepted, the appropriate authorities shall be, without delay, requested to furnish all information which may be considered necessary in order to decide relative to its justness or otherwise, and to fix with precision the amount of indemnity which should be paid; in the same ruling ordering this information to be requested, the interested party shall be given a period within which to submit the proofs he considers pertinent; the duration of this period, which cannot be for more than four months, shall be fixed bearing in mind the distances, difficulties of communication, and the nature of such proofs.

ART. 19. Proofs of any nature may be submitted, but they should always be submitted to the commission in written form, for which reason, in cases of the declarations of witnesses, reports of experts, or others of a similar nature, the same should be submitted, in the nature of voluntary affidavits drawn up before the appropriate judges, sending to the commission a certified copy of the same.

ART. 20. Once the proofs and information referred to in the preceding article have been presented and received, the record shall be placed at the disposal of the interested party for a period of ten days.

ART. 21. At the termination of the period mentioned in the preceding article, within which the interested party may make a written statement of his rights, the office of the secretary shall return the record to the member to whom it was referred originally for study, and he shall present to the commission in writing his suggestions of the decision which should be reached relative to the fundamental principles of the complaint, stating the amount which in each case should be paid.

ART. 22. The commission, in view of the facts contained in the record, and of the report of the member of the commission, shall discuss and vote on the claim, drawing up its resolution, which should conclude with definite propositions regarding the justness or otherwise of the claim, stating the reasons upon which the resolution is based. The said resolution shall be communicated to the interested party or to his legal representative, by means of a communication addressed to the residence given. In the said communication a period shall be fixed, to be not over one month, within which the interested party shall state his conformity or otherwise with the resolution.

ART. 23. At the termination of the period referred to in the preceding article, the commission shall send the record to the Department of the Treasury in order that the latter may forward it to the President of the Republic for final decision, excepting in the case of foreigners who may have indicated their lack of conformity with the resolution of the commission; in this case the action referred to in Article 25 and those following shall be taken.

ART. 24. For the purpose of carrying into effect the last part of Article 7 of the law of November 24 this year, the records relative to claims arising from the revolution of 1910 (regarding which, although the resolution of the consultive commission has been drawn up, a final decision thereon has not been reached by the Department of the Treasury) shall be submitted by the latter to the President of the Republic for final decision.

ART. 25. For the purpose of carrying into effect Article 11 of the law of November 24, 1917, the only proofs acceptable of foreign citizenship shall be: A passport visaed by the respective embassy, legation or consulate; naturalization papers; or registration certificate in the case of an individual, and the duly registered copy of protocolization documents referred to in Article 24 of the commercial code in the case of companies.

ART. 26. Foreign claimants who may not be agreeable to the resolution of the commission, and who do not decide to use diplomatic channels in presenting their objections thereto, shall address the commission in writing within the period indicated in Article 22, stating their desire to submit their claims to the corresponding arbitration commission.

ART. 27. The claims commission, before terminating its labors, shall send to the Department of the Treasury a list of the foreign claimants referred to in the preceding article.

ART. 28. The Department of the Treasury shall at once send the said list to the Department of Foreign Affairs, in order that the latter, with the data furnished it by the foreign diplomatic representatives, may make up the general list of claims to be submitted to the arbitration boards for decision.

ART. 29. As soon as the general list of claims referred to in the preceding article is completed, the Department of Foreign Affairs shall, in agreement

with the foreign diplomatic representatives, proceed to decide upon the form and periods in which the arbitration boards shall be formed, and to establish the rules under which they shall work, on the understanding that the said rules may not in any way conflict with the provisions of Articles 5, 6, 7 and 8 of the law of November 24 this year.

ART. 30. The Department of the Treasury shall, in due time, send to that of Foreign Affairs all the records relating to foreign claims to be submitted to the arbitration boards, in order that the latter may have such records before them in examining the claims.

I, therefore, order that this be printed, published, distributed, and given due compliance.

Given at the Palace of the Executive Power of the Union, on the 24th day of December, nineteen hundred and seventeen.

V. CARRANZA [RUBRIC]

File No. 412.00/61

The French Ambassador (Jusserand) to the Secretary of State
[Translation]

WASHINGTON, February 8, 1918.

MR. SECRETARY OF STATE: My Government advises me that in its opinion the dual jurisdiction over claims provided by Carranza's decree of November 24 offers but inadequate guarantees to foreign claimants.

For instance, Mexican corporations whose capital is foreign are barred from appeal to the arbitral commission and the membership of the commission itself is entirely left to the arbitrary will of the Mexican Government.

The Government of the Republic particularly wishes to point to Articles 5, 8, 12, 14 and 17 of the said decree as calling for the most formal reservations in any event.

I should be thankful to your excellency if you would kindly enable me to report to my Government the American Government's views in this respect and, if you deem it possible, acquaint me with the purport of the instructions you shall have sent on the subject to the representative of the United States in Mexico.

Be pleased [etc.]

JUSSERAND

*The Acting Secretary of State to the French Ambassador
(Jusserand)*

No. 2090

WASHINGTON, March 5, 1918.

EXCELLENCY: I have the honor to acknowledge the receipt of your excellency's note of February 8, 1918, in regard to President Venustiano Carranza's decree of November 24, 1917, respecting the settlement of claims against the Mexican Government.

You state that it is the opinion of your Government that the decree does not offer adequate guarantees to foreign claimants, and you invite my special attention to Articles 5, 8, 12, 14 and 17 of the said decree. You say that you would be pleased to receive an expression of this Government's views regarding the matter, for communication to your Government.

In reply I have the honor to say to your excellency that further information has been requested from the Mexican Government with

relation to the meaning of Articles 5, 6, 7, 12 and 14 of the decree in question, and that no definite position will be taken respecting the decree until the Department shall be more fully advised in the premises.

However, it may be added that the Department is desirous of accepting the plans of the Government of Mexico for the disposition of the claims of foreigners if the Government of the United States finds that this can be done with justice to the interests of American citizens concerned.

Accept [etc.]

FRANK L. POLK

File No. 412.00/58

*The Acting Secretary of State to the Ambassador in Mexico
(Fletcher)*

No. 470.

WASHINGTON, March 8, 1918.

SIR: The Department acknowledges the receipt of your No. 834 [634] of December 5, 1917,¹ with which you forwarded the text and translation of the presidential decree providing for the appointment of a commission to pass upon claims for damages to persons and property growing out of the Mexican revolutions, and of your No. 710 of January 15, 1918, with which was enclosed the text and translation of a presidential decree prescribing regulations for carrying into effect the first-mentioned decree.

Careful consideration has been given by the Department to the provisions of these decrees with a view, if it were found practicable so to do consistently with the best interest of American claimants, of lending all possible and proper assistance to the Mexican Government in its endeavors to adjust the troublesome questions presented by the claims in question, through the successful operation of the proposed plan. As a result of this consideration the Department is constrained to observe that there are certain provisions of the decree first mentioned which do not seem altogether clear. Therefore, it is desired that further light be obtained on the purpose and intent of these provisions, which are mentioned below.

Article 5 of the decree in question provides that the claims commission shall accept only claims for damages caused by revolutionary forces or those recognized as such by the legitimate governments established upon the triumph of the respective revolutions; by the forces of the governments in the performance of their duties and during the struggles against rebels, and those caused by the forces of the so-called Federal Army up to the day of its dissolution. Article 5 reads as follows:

The commission shall accept only such claims as are based:

- I. On damages caused by revolutionary forces or recognized as such by the legitimate governments which may have been established in the Republic upon the triumph of the respective revolution.
- II. Those caused by the forces of the said governments in the performance of their duties and during the struggle against rebels, and
- III. Those caused by the forces of the so-called Federal Army up to the time of its dissolution.

¹ No. 634 not printed; for enclosure see *ante*, p. 793.

Respecting the first class of claims listed as acceptable by the provisions of said Article 5, it may be said that the language used seems susceptible of construction so as to exclude claims for damages caused by bandits or outlaws, although the Department believes that this construction was not within the intent of the Mexican Government in drafting the decree, especially as the existence and depredations of these bandits were unquestionably largely incidental to the disturbed conditions due to the revolutions and as it is contended by many American claimants that the damages suffered by them in consequence of such depredations could have been obviated had the Mexican Government furnished the protection which was within its power to supply, and for this as well as other reasons should under the generally accepted rules of international law be repaired at the hands of the Mexican Government.

Furthermore, the language referred to would seem possibly susceptible of the construction that it was intended to cover only damages caused by "revolutionary forces" operating against the authorities which are regarded by the present Government as usurpers and therefore as excluding claims for damages caused by those forces revolting against authorities regarded by the present Government of Mexico as legitimate. This apparently possible construction is not believed to have been contemplated by the Mexican Government, especially as it is alleged by certain American claimants that damages were inflicted upon them by unsuccessful revolutionists, which damages the existing authorities failed to avert, although having the power so to do.

Article 6 of the decree reads as follows:

Those subject to the civil responsibilities referred to in Transitory Article 15 of the Political Constitution of the United Mexican States, promulgated on the 5th of February of the present year, may not benefit by the provisions of this law. In such cases a hearing shall be given to the Department of Gobernación.

The provisions of Article 6 appear to exclude from the benefits of the decree persons who supported the so-called Huerta administration, as well as persons who have supported any attempts at revolution against the present authorities of Mexico. Inasmuch as foreigners residing or owning property in Mexico were, in accordance with the generally accepted rules of international law, entitled with respect to matters within the apparent scope of such authority to deal with persons exercising *de facto* authority and as foreigners were subjected to measures of compulsion from time to time adopted by such persons in authority, this Government would be pleased to have the Government of Mexico make a more comprehensive statement as to the scope and effect of the provisions of this article, and particularly to be informed as to whether Article 6 is to be understood as excluding from the operation of the decree persons who supported the so-called Huerta administration as well as persons who supported any attempts at revolution against the present authorities of Mexico.

Article 7 of the decree reads as follows:

The right to present claims shall expire within three years from the date of this law. Claims arising from the revolution begun in 1910, which may have been submitted to the consulting commission established by virtue of the law of May 31, 1911, shall be considered as having been presented within the period

indicated, and shall be handled by the new commission, the files being taken in their present state, and the proceedings thereon being continued in accordance with the provisions of this law and its regulations.

This article appears to limit the right to present claims to three years from the date of the decree and makes provision for consideration by the commission of claims arising from the revolution of 1910, which were submitted to the claims commission constituted by President Madero and which claims shall be considered as presented within the time limited by the decree under consideration. Regarding these provisions it may be observed that the Department presumes that it was not the intention of the Government of Mexico to exclude from the cognizance of the proposed commission claims arising from the revolution of 1910 which were not presented to the commission created by President Madero, but in order to clear up all possible ambiguity on this point this Government would like to have an authoritative statement thereon.

There are certain other features of the decree which the Government of the United States desires to bring to the attention of the Government of Mexico with a view to a clearer understanding of the whole situation created by the decree. Among such features are the requirements of Article 12, that—

Stock companies organized under the laws of the Republic shall be considered as Mexican, so far as their claims are concerned, although some or all of the stockholders are foreigners.

With respect to this requirement it may be observed that it is the understanding of the Department that many Mexican corporations have been largely or wholly composed of American stockholders. There have been filed with the Department a number of claims for damages made by such corporations or stockholders thereof. It will, therefore, be readily appreciated by the Mexican Government that this Government is under very great pressure to take at least an interest in the equitable treatment of companies with American stockholders, particularly in cases where the stock owned by American citizens comprises a large proportion of the total capital invested. In making this statement it should of course be understood that this Government does not intend to intimate that corporations so constituted will not receive equitable treatment at the hands of the claims commission, but if perchance this should prove to be true in any particular case, this Government desires to have the Mexican Government advised as to its position in respect to the American interests involved.

It is observed that Article 14 of the decree under consideration provides:

The findings of the commission with regard to the claims of foreigners, which may have been objected to by the parties interested in one of the two forms indicated in the preceding article, shall be submitted for arbitration to three persons, one of whom shall be appointed by the President of the Republic, another by the diplomatic agent of the country to which the claimant belongs, and the third by the other two selected. Should these be unable to reach a decision, the third shall be appointed by the President of the Republic from among the nationals of some country which has no claims for damages growing out of the revolution. The appointment of the arbitrators shall be made in accordance with the regulations governing this law, but it is to be understood that none of those selected shall have diplomatic or consular character.

In connection with these provisions it may be said, firstly, that the Government of the United States does not doubt the desire and intention of the Mexican Government to establish an impartial tribunal to pass upon the claims of foreigners, but it ventures to suggest, in order to remove all possible criticisms by claimants on the score of the composition of the tribunal, the advisability of averting the possible appointment by Mexican authorities of two out of the three members of the arbitration board. It would seem that this desirable result might be attained in a manner entirely satisfactory to the Government of Mexico by providing that, in the event of a disagreement by the two members of the board in the selection of the third member, the selection be made by the sovereign of a country having no claims against Mexico arising out of the revolutions. This Government, therefore, would be pleased to be informed as to whether the Mexican Government is not able to amend the decree to this end.

Passing to the decree of December 24, 1917, prescribing regulations for carrying into effect the decree providing for the constitution of a claims commission, it may be said that there are various provisions contained in the first-mentioned decree which in the view of the Department are not quite clear and therefore the Government of the United States desires further explanation of them by the Government of Mexico. For example, Article 10, paragraph iv of this decree, relating to powers of attorney given by claimants to persons who shall act for them before the commission, provides as follows:

In cases where the claimant does not handle his case personally, proof must be submitted of the power of attorney of the person handling same, giving his place of residence.

If the claim is for less than 5,000 pesos, proof of legal right shall be presented by means of letter of authority signed by the one granting the power, and ratified before the municipal president of the place where extended; if the claim is for 5,000 pesos or over, proof of legal right shall be presented by means of a power of attorney drawn up before a notary.

It would seem, then, that it is required that these documents be ratified before a Mexican official, and that no provision is made for the authentication of documents of foreign claimants not located in Mexico. Is it not possible to provide some means whereby American claimants may be able to legalize their documents in the United States if necessary?

Article 12 of the decree provides in the case of foreign claimants:

The second clerk referred to in the preceding article shall carry, under the supervision of the Secretary, a special register of the claims of foreigners who may have submitted proofs as such; in the said register shall be noted, grouped according to nationality, the name of the claimant and his legal representative, when there is such, and the amount of the claim; and in a special column shall be noted, at the proper time, a brief extract of the decision of the commission, and a note as to whether the claimant made use of the right granted in Article 13 of the law of November 14, 1917.

This register shall be carried without prejudice to the general claim register referred to in the preceding article.

Is not the reference to the law of November 14 a typographical error and the true reference to the law of November 24, 1917, establishing the commission?

Article 19 of the decree under consideration provides that—

Proofs of any nature may be submitted, but they should always be submitted to the commission in written form, for which reason, in cases of the declarations of witnesses, reports of experts, or others of a similar nature, the same should be submitted, in the nature of voluntary affidavits drawn up before the appropriate judges, sending to the commission a certified copy of the same.

On this point the Department seeks information as to its bearing upon affidavits sworn to outside of Mexico and in this connection desires to urge that provision be made for the acceptance of affidavits sworn to before any official authorized by the laws of the United States to administer oaths.

Articles 20 and 21 of the decree provide for placing the record at the disposition of the "interested party for a period of ten days" after the receipt of the "proofs and information," at the termination of which period, "the interested party may make a written statement of his rights." Assuming that by "interested party" is meant the claimant or his representative, attention is called to the fact that the time limitation imposed would, as a rule, preclude action of the kind contemplated, by claimants residing outside of Mexico unless they have a legal representative on the ground to whom the record would be transmitted.

The Department, therefore, desires to be informed as to whether the term "interested party" as used in these articles is intended to include the claimant or his representative, and if it is intended that claimants outside of Mexico must have a representative on the ground. In any event, it would seem that the time limitation should be extended to 30 days, or more, as even if claimants should have representatives on the ground the latter would undoubtedly, in many cases, desire to submit the records to their principals in this country.

Finally, it is noted that Article 25 of the decree provides that in cases of corporations proof must be made of foreign citizenship by "duly registered copy of protocolization documents referred to in Article 24 of the commercial code." With regard to these provisions the Department would be pleased to be more fully informed as to the exact meaning of the term "duly registered" and as to the provisions of the mentioned article of the commercial code.

You will please bring the foregoing to the attention of the Foreign Office, making it clear that the primary purpose of the Department in seeking the information requested is to be of assistance to the Government of Mexico in its laudable effort to provide for the settlement of the claims in question.

In connection with this instruction, the Department desires you to acquaint it with such information as may be obtainable with regard to the attitude thus far assumed by other foreign governments towards the project of the Government of Mexico which is under discussion.

I am [etc.]

FRANK L. POLK

File No. 412.00/64

The British Ambassador (Reading) to the Secretary of State

No. 264

WASHINGTON, March 12, 1918.

DEAR MR. SECRETARY: Your Department will doubtless be in possession of a translation of a decree which was published in Mexico by the Government of General Carranza under date of November 24 last ordering the appointment of a commission for investigating the claims for damages caused by the revolution. All members of the commission must be Mexican citizens.

Foreign claimants who might not be satisfied with the decision of the committee were given the right to appeal against them, and the matter then would be referred to an arbitration committee of three members, one of whom would be appointed by the President of the Republic, another by the diplomatic representative of the country of the claimant, and the third by mutual agreement between the first two. Amongst other articles in the decree was one which declared that joint stock companies formed in accordance with Mexican law should be considered as Mexican companies in respect of their claims, even though some or all of the shareholders might be foreigners.

In accordance with instructions which I have received from His Majesty's Principal Secretary of State for Foreign Affairs, I have the honour to enquire what are the views of the United States Government as to the effect of this decree.

Believe me [etc.]

READING

The Secretary of State to the British Ambassador (Reading)

No. 30

WASHINGTON, March 19, 1918.

EXCELLENCY: I have the honor to acknowledge the receipt of your excellency's note No. 264 of March 12, 1918, in regard to President Venustiano Carranza's decree of November 24, 1917, respecting the settlement of claims against the Mexican Government. You request to be furnished with an expression of this Government's views regarding this decree.

In reply I have the honor to say to your excellency that further information has been requested from the Mexican Government with relation to the meaning of Articles 5, 6, 7, 12 and 14 of the decree in question, and that no definite position will be taken respecting the decree until the Department shall be more fully advised in the premises.

However, it may be added that the Department is desirous of accepting the plans of the Government of Mexico for the disposition of the claims of foreigners if the Government of the United States finds that this can be done with justice to the interests of American citizens concerned.

I have [etc.]

ROBERT LANSING

File No. 412.00/66

The Ambassador in Mexico (Fletcher) to the Secretary of State

No. 886

MEXICO, April 2, 1918.

SIR: I have the honor to acknowledge the receipt of the Department's instruction No. 470 of March 8, 1918, relative to the establishment of a claims commission by the Mexican Government. As directed by the Department, representations regarding this matter were made to the Foreign Office in the Embassy's note No. 288 of March 29, 1918, a copy of which is attached hereto.

I have [etc.]

HENRY P. FLETCHER

[Enclosure]

The American Ambassador (Fletcher) to the Mexican Secretary of State for Foreign Affairs (Aguilar)

No. 288

• MEXICO, March 29, 1918.

EXCELLENCY: At the direction of the Department of State I have the honor to invite the attention of your excellency to presidential decree of November 24, 1917, published in the *Diario Oficial* of the 28th of the same month, relative to the creation of a commission to pass upon claims for damages to persons and property growing out of the Mexican revolutions, and to the regulations thereof dated December 24, 1917, published in the *Diario Oficial* of the 28th of the same month.

In connection with this matter, I am instructed to say to your excellency that [Here follows a transcript of Department's instruction No. 470 of March 8, 1918, except first and last paragraphs.]

Accept [etc.]

HENRY P. FLETCHER

File No. 412.00/65

The Belgian Minister (Cartier) to the Secretary of State

WASHINGTON, April 6, 1918.

MY DEAR MR. SECRETARY: The Belgian Government has been informed that, on November 24, 1917, General Carranza has issued a decree indicating the rules according to which claims for damages resulting from revolutionary movements in Mexico from 1910 to 1917 will be settled.

My Government would like to know the attitude which the Government of the United States has the intention to adopt in regard to the provisions of the above-said decree.

Allow me to have recourse to your kindness. I would appreciate very much if you would be so good as to enable me to comply with the wish expressed by my Government.

I beg [etc.]

E. DE CARTIER

The Secretary of State to the Belgian Minister (Cartier)

WASHINGTON, April 9, 1918.

MY DEAR MR. MINISTER: I beg to acknowledge the receipt of your note of April 6, 1918, in regard to President Venustiano Carranza's decree of November 24, 1918 [1917], respecting the settlement of

claims against the Mexican Government. You request to be furnished with an expression of this Government's views regarding this decree.

In reply, I desire to say that further information has been requested from the Mexican Government with relation to the meaning of Articles 5, 6, 7, 12 and 14 of the decree in question, and that no definite position will be taken respecting the decree until the Department shall be more fully advised in the premises.

However, it may be added that the Department is desirous of accepting the plans of the Government of Mexico for the disposition of the claims of foreigners if the Government of the United States finds that this can be done with justice to the interests of American citizens concerned.

I am [etc.]

ROBERT LANSING

File No. 412.00/58

The Acting Secretary of State to the Ambassador in Mexico (Fletcher)

[Telegram]

WASHINGTON, July 30, 1918, 6 p. m.

1323. Your 1079, May 17, 1 p. m.¹ Department has not received promised note from Foreign Office respecting claims commission. If note has not yet come to you, ask Foreign Office when it may be expected, and press for prompt and, if possible, satisfactory reply. Mexico could do much to improve friendly relations with United States and promote good feeling among injured Americans by establishment of strong, impartial claims commission, which would win confidence and respect of claimants concerned.

POLK

File No. 412.00/70

The Ambassador in Mexico (Fletcher) to the Secretary of State No. 1275

MEXICO, July 31, 1918.

SIR: With reference to your telegram No. 1323 of July 30, 6 p. m., relative to the Mexican claims commission, I have the honor to report that in spite of repeated requests of the Foreign Office for a reply to my note No. 288 of March 29, 1918, I have not as yet received a reply.

I understand from General Eduardo Hay, a member of the commission, that while the commission has been organized and has taken possession of offices assigned to it, the actual work has not yet commenced.

In recent conversation with a member of the Embassy staff, in regard to the Embassy's request for an interpretation of certain provisions of the decree of November 24, 1917, providing for the appointment of the claims commission, General Hay stated that he would endeavor to have the Embassy's request for information transmitted to the commission for reply.

¹ Not printed. Reports that Foreign Office is preparing reply.

As directed, I shall renew my efforts to obtain a prompt and satisfactory reply.

I have [etc.]

HENRY P. FLETCHER

File No. 412.00/72

The Chargé in Mexico (Summerlin) to the Secretary of State

No. 1492

MEXICO, October 9, 1918.

SIR: With reference to Embassy despatch No. 710 of January 15, 1918, transmitting the text and translation of the decree of the Mexican Government creating the claims commission [regulations for the law creating the claims commission], I have the honor to transmit, herewith, the text of a new decree, dated October 1, 1918, which replaces and cancels the former one of December 24, 1917.

The changes in the first 30 articles of the new decree are only in the wording and with respect to the interior organization and management of the commission. Articles 31 and 32 and the transitory article are new and authorize the commission to secure information and data relative to claims from any federal, state, or municipal office; to appoint experts; and to pay certain salaries to the members and employees of the commission, to be charged to "extraordinary expenditures", for the remainder of the present fiscal year.

I have [etc.]

GEORGE T. SUMMERLIN

[Enclosure—Translation]

Decree amending that of December 24, 1917, concerning regulations for the application of the law which created the claims commission¹

I, Venustiano Carranza, Constitutional President of the United Mexican States to the people thereof, make known:

That in the exercise of the constitutional powers of the Executive and in accordance with the provisions of the law of November 24, 1917, I have seen fit to revise the regulations of December 24 of that year as follows:

REGULATIONS FOR THE LAW WHICH CREATED THE CLAIMS COMMISSION

ARTICLE 1. The Office of the claims commission shall be installed at such a place as may be designated by the Secretary of the Treasury and shall be open to the public every working day and during the same hours in which the other branches of that Department are operating.

ART. 2. The offices of the commission shall have the following staff of employees, a secretary, chief clerk, a chief, five stenographer-typewriters, three clerks, a janitor, and a messenger. The commission upon consultation with the Department of the Treasury may make changes in this personnel as the work of the office may demand.

ART. 3. The president and voting members of the commission and also the subordinate employees shall receive the salary appropriated for them in the respective estimates.

ART. 4. The office of the commission shall be under the direct orders of the secretary who shall, in accord with the president, decide all matters relative to internal organization that are not specified in these regulations.

ART. 5. As a rule the commission shall meet to discharge its duties not less than three times a week but by order of its president it may have extraordinary sessions whenever required for the speedier and more efficient dispatch of its business.

ART. 6. The commission shall not hold a meeting without having at least three of its members and the secretary in attendance. In the occasional absence of the president the senior voting members of those present shall act in his place. The chief clerk shall act for the secretary when necessary.

¹ *Diario Oficial*, October 7, 1918.

ART. 7. The awards of the commission shall be rendered by a majority of the votes of the commissioners present. In case of a tie the vote of the president or the acting president shall decide. The commissioners who disagree with the majority shall make a written statement of their opinion stating the grounds upon which it is based.

ART. 8. The examination of the cases from the moment when a claim is filed until a decision is ready shall be conducted by an order issued by each commissioner in the cases within his jurisdiction and carried out through the Department. The orders of the commissioners may be revoked by the commission.

ART. 9. The secretary shall give to the claimants or their attorneys notice of the decisions of the commission and of the action of which they must have knowledge through official letters mailed to the address given to him.

ART. 10. The requirements of form which must be met by the claims in order to be entertained by the commission shall be as follows:

I. They must be presented in writing and in Spanish.

II. They must be accompanied by all the necessary vouchers and proof to demonstrate that the injury was really done and in support of the amount claimed on that account.

III. The name or firm name, nationality and domicile of the claimant must be stated.

IV. In cases where the claimants do not conduct their own cases in person, the attorney whom they may appoint to be duly accredited and his domicile must be stated.

If the amount claimed be less than \$5,000 the character of attorney must be accredited by means of a power of attorney signed by the principal and ratified before the municipal president of the place where it is issued; if the claim should amount to \$5,000 or more the character of attorney must be accredited by means of a legal power of attorney executed before a notary.

V. The places and dates where and on which the facts occurred, from which the claim arises, must be stated with the greatest possible precision, as well as the names of the persons who have had any part therein, and also the nature of the damage.

VI. The amount in national gold claimed by the claimant as indemnity must be expressed.

ART. 11. Under the responsibility and direct supervision of the secretary, the chief shall keep in person a book in which the claim shall be entered and in which shall be noted all those that may be received stating with clearness and in separate columns the day and hour when it was filed, the name or firm name of the claimant, his domicile and nationality, the name and domicile of the attorney when the claimant does not conduct his case in person, the amount of the claim, the nature of the facts upon which the claim is based, the date on which they occurred, and the place in the Republic where they occurred and also the name of the commissioner to whom the case is turned over for examination. In a separate column a note shall be made at the proper time of the purport of the award of the commission.

ART. 12. The same chief referred to in the preceding article shall keep, under the supervision of the secretary, a special book for the entry of foreign claims entitled to that character. In the said book shall be noted, grouped by nationalities, the name of the claimant and his attorney, if any, and the amount of the claim, and in a special column a note should be made at the proper time briefly stating the award of the commission and also whether the claimant availed himself of the right accorded to him by Article 13 of the law of November 14, 1917.

This record shall be kept without prejudice to that which must be kept of all the claims in the book referred to in the previous article.

ART. 13. The secretary shall keep in person under the supervision of the president two books, one in which shall be noted the names of the commissioners put in charge of every case with the note of the number of that case and the name of the claimant, and the other in which shall be noted the names of the commissioners and of the proceedings and decisions that the said commissioners may make in their respective cases until they shall have reached the stage of an award.

ART. 14. Under the supervision of the secretary, the chief clerk shall draw up general statistics including all the claims that have been denied or approved

from 1910 to 1917, it being understood that the statistics shall be made in accordance with the instructions given to that effect by the president of the commission.

In addition there may be kept in the secretary's office such additional books as may be ordered by the president if deemed by him necessary to expedite the business.

ART. 15. Proceedings shall begin on the claims in the strict order of their presentation. To that effect as soon as the secretary shall receive a claim he shall look into it and if he finds that it meets all the requirements enumerated in Article 10 of these rules and regulations he shall order it to be entered in the books where it belongs; if not, he shall tell the claimant or the person who may present the claim the defects in form that have been discovered in order that it may again be recorded after these defects shall have been removed.

ART. 16. The secretary's office after registering a claim and getting up the *dossier* thereof shall report it to the president who shall appoint the commissioner who is to take it in charge, said appointment being made strictly by naming one member of the commission after another in their alphabetical order.

ART. 17. The commissioner shall take up the study and conduct of the case, but immediately upon his finding that it does not meet the requirements stated in Articles 5, 6 and 7 of the law, he shall report to the commission and move that the claim be rejected at once.

ART. 18. The claim having been admitted, applications should be made without delay to the authorities concerned for all the information that may be deemed necessary to pass upon its validity or invalidity and to fix with proper accuracy the amount that should be paid by way of indemnity. In the same order in which the said information is called for, a term shall be notified to the claimant in which to submit the evidence that he may deem proper; the length of that term, which shall not exceed four months, shall be fixed according to the distance, the difficulty of communications and the character of the evidence.

ART. 19. The claimants may submit every kind of evidence, but the commission shall always receive it in a documentary form whenever, as in the case of declaration of witnesses, reports of experts, and other matter of the same kind, it is necessary for them to be submitted voluntarily before the judges competent to receive them, a certified copy of the proceedings being delivered to the commission.

ART. 20. The evidence having been presented and the information received as stated in the foregoing article, the record of the case shall be made accessible to the claimant for a term of ten days in which to offer such allegation in writing as he may deem pertinent.

ART. 21. At the expiration of the term above referred to, the commissioner in charge of the case shall submit to the commission in writing a draft of the decision as to the merits of the case, stating therein the amount which should be paid, if any.

ART. 22. The commission, with the records of the case and the report of the commissioner in charge thereof before it, shall discuss and vote upon the claim and draw the advisory decision, which shall conclude with a concrete proposition as to the validity or invalidity of the claim and the amount of the indemnity which is to be paid to the claimant, with a statement of the reasons which have been taken into consideration in reaching it. The said decision shall be notified to the claimant or his attorney by an official note sent to the domicile designated by himself, and shall fix a term which shall not exceed one month, within which the claimants may state in writing whether or not they agree to the decision so notified to them.

ART. 23. At the expiration of the term referred to in the foregoing article the commission shall deliver the record of the case to the Department of the Treasury in order that it may be transmitted to the citizen President of the Republic for his final decision save in the case of foreigners who may have declared their non-agreement with the advisory decision of the commission, when the procedure shall be that stated in Article 25 and following.

ART. 24. For the purposes of the final part of Article 7 of the law of November 24 of last year, the records of cases arising from the revolution of 1910 and in which, although the opinion of the advisory commission may have been presented, the final decision shall not have been reached by the Secretary

of Finance, shall be through that Department referred to the citizen President of the Republic in order that the final decision may be given by him.

ART. 25. For the purposes of Article 11 of the law of November 24, 1917, the only proof of alienage that may be admitted shall be: a passport visaed by the embassy, legation or consulate of that country, the letters of naturalization in the case of naturalization or the certificate of registration in the case of individuals, and the evidence duly registered of the recording of the documents referred to in Article 24 of the commercial code in the case of companies.

ART. 26. Foreign claimants who should decline to accept the opinion of the commission and do not choose to take the diplomatic channel to formulate their objections shall apply in writing to the same commission within the term referred to in Article 22 and express their desire to refer their claim to the proper arbitral commission.

ART. 27. The claims commission, before concluding its labors, shall deliver to the Department of the Treasury a list of the foreign claimants whose cases come under the previous article.

ART. 28. The Department of the Treasury shall immediately transmit that list to the Department of Foreign Relations in order that it may, with the data before it furnished by the foreign diplomatic officers, prepare a general list of the claims that will have to be submitted to the decision of the arbitral commissions.

ART. 29. As soon as the general list of claims referred to in the foregoing article shall have been finally made up, the Department of Foreign Relations will proceed, in accordance with the foreign diplomatic officers, to determine the form and time limits in which the arbitral commissions will have to be organized and to lay down the rules of procedure for the guidance of the said commissions with the understanding that the said bases can in no case conflict with the provisions of Articles 5, 6, 7 and 8 of the law of the 24th of November of this [sic] year.

ART. 30. The Department of the Treasury will forward in due course to that of Foreign Relations all the records relative to foreign claims which are to be passed upon by the arbitral commissions in order that the said commissions may have them before them in examining the respective cases.

ART. 31. The commission may apply directly or by letters signed by the president and the secretary to all the public offices of the Federation, of the States and municipalities, and also the chiefs of the national army, for such information, data and copies of documents as they may need to prove and throw light on the claim, which information must be furnished with the least possible delay.

They may also apply for the assistance of such experts as the public offices may furnish for expert opinions and give instructions to the state attorney and his agents assigned to the district courts or to any person whatever who may discharge duties in the cases which are brought before those courts or before the ordinary State or Federal courts for the purpose of establishing the validity of claims.

ART. 32. After consulting the Department of the Treasury, the commission may appoint, temporarily or permanently, experts and commercial investigating agents to clarify the points at issue, whose salary or compensation is to be determined upon consultation with the same Department.

TRANSITORY ARTICLE

During the time still to run before the end of the present fiscal year the president and voting members of the commission, as well as the subordinate employees of the same, shall receive the salary granted them by the Executive through the Department of the Treasury and charged to the account of "extraordinary expenses" of the said Department.

I, therefore, order that this be printed, published, circulated and duly complied with.

Given at the Palace of the Executive Power of the Union in Mexico, on the first day of October, one thousand nine hundred and eighteen.

V. CARRANZA [RUBRIC]

File No. 412.00/73a

The Secretary of State to the Ambassador in Mexico (Fletcher)

[Telegram]

WASHINGTON, November 8, 1918, 6 p. m.

1619. From Mr. Polk to Mr. Fletcher. Please telegraph status of proposed claims commission and what has been done to obtain reconstitution of commission as desired by Department and set forth in its earlier instructions. Also what is attitude of other governments towards commission. Some action is very necessary in the near future.

LANSING

File No. 412.00/74

The Ambassador in Mexico (Fletcher) to the Secretary of State

[Telegram]

MEXICO, November 15, 1918, 4 p. m.

1710. Department's telegram No. 1619, November 8, 6 p. m. Department's instruction of March 8 communicated textually to Mexican Foreign Office in note dated March 29. Further information relative to certain provisions of decree requested by Embassy in notes of August 27 and October 21. No reply has been received to any of these notes.

Attitude of other governments is as follows: Great Britain holds the view that if the commission should prove a useful body it will be possible, in the interval of three years allowed by the decree, to see that claims of British subjects are duly presented, and have instructed their Legation to report on the subject every six months. If it finally be decided to refer British subjects to the commission their representatives have instructions to reserve rights in regard to British claims which do not come under Article 5. Up to the present no British claims have been presented to the commission.

France has made no decision. Italy reserves in general all rights for the protection of her nationals. Belgium will follow Washington.

FLETCHER

The Secretary of State to the Ambassador in Mexico (Fletcher)

[Telegram]

WASHINGTON, November 22, 1918, 8 p. m.

1656. Your 1710, November 15. Press Mexican Government for consideration of your communications, and endeavor to obtain favorable reply in near future. Claims against Mexico are being revived with forceful insistence, and Department deems it very important that it should be in position to state that some progress has been made in the organization of a commission to which American claimants can be referred.

LANSING

File No. 412.00/80

The Ambassador in Mexico (Fletcher) to the Secretary of State

[Teleg]

MEXICO, November 25, 1918, 6 p. m.

1750. Department's 1656, November 22, 8 p. m. General Eduardo Hay, member of Mexican Claims Commission, stated to-day that commission has been organized and meeting three times weekly for the past three months and hoped in the course of ten days to begin the consideration of individual claims. No reply to the Embassy's notes on this subject has been received from the Foreign Office.

FLETCHER

The Secretary of State to the Ambassador in Mexico (Fletcher)

[Teleg]

WASHINGTON, November 29, 1918, 12 noon.

1668. Your 1750, November 25, 6 p. m. As commission appears to have been functioning for some time Department must again ask what efforts are being made to obtain replies to Embassy's notes regarding commission.

LANSING

File No. 412.00/85

The Ambassador in Mexico (Fletcher) to the Secretary of State

No. 1656

MEXICO, December 11, 1918.

SIR: Confirming my telegram No. 1804 of to-day's date,¹ I have the honor to forward herewith a copy and translation of a note received last night from the Mexican Foreign Office, in reply to my note No. 288 of March 29 last, on the subject of the claims commission set up by the Mexican Government by the decree of November 24, 1917.

The reply of the Mexican Government seems, after a hasty glance, to meet the observations contained in the Department's instruction No. 470 of March 8, embodied in my note to the Foreign Office No. 288 of March 29 last, copy of which I had the honor to forward to the Department in my despatch No. 886 of April 2, with the exception of the selection of the third member of the arbitration board provided for in Article 14 of the decree. There was evidently a mistake made in the Foreign Office in the translation of my note, omitting the words "of two out" (page 8, line 23), but inasmuch as the Mexican Government takes the position that the law of November 24 can now be modified by Congress only, the matter can in all probability be adjusted later if the Department deems it of sufficient moment.

I have [etc.]

HENRY P. FLETCHER

¹ Not printed.

[Enclosure—Translation]

The Mexican Acting Secretary of State for Foreign Affairs (Pérez) to the American Ambassador (Fletcher)

No. 4127

MEXICO, November 29, 1918.

MR. AMBASSADOR: I have the honor to refer to your excellency's courteous note No. 288 of March 29 last, in which, under instructions from your Government, you request certain explanations and suggest certain reforms in connection with the law of November 24, 1917, and with the regulations of December 24 of the same year, with regard to the commission on claims for damages arising from the revolution, as well as to notes Nos. 562 of August 27 and 687 of October 21, which the Embassy in your worthy charge addressed to this Department on the same matter.

By instructions of the President of the Republic, I am pleased to furnish your excellency with the explanations requested, and I am pleased, at the same time, to state that the Mexican Government appreciates fully the desire of the American Government to assist it in solving the controversies arising from the claims, and that it reciprocates that spirit of cordiality by facilitating as it does a proper understanding of the legal measures looking to a solution of such controversies.

In the first place, your excellency calls the attention of this Department to the provisions of Article 5 of the said decree, stating that, apparently, there are not included therein the damages caused by bandits or outlaws; but that the Department of State believes that it was not the intention of the Mexican Government to exclude claims for damages caused by bandits or revolting forces, in view of the contention of many American claimants that the damages suffered by them could have been avoided had the Mexican Government afforded the protection which was within its power and ability to supply.

In reply, I beg to state to your excellency that Article 5 of the decree of November 24, 1917, is restrictive and includes only the cases expressly described, for which reason the claims commission could not admit nor decide upon claims for damages caused by bandits; but this does not signify that the Government of Mexico denies to the sufferers the right to present claims, since, in accordance with the general principles accepted by international law, they may do so. In effect, those who suffered damages coming under the latter case may not present them to the claims commission; but they shall have the right to do so through diplomatic channels, and their claims shall be given consideration in the special cases provided for by international law. I believe that this explanation will satisfy your excellency and the Government of the United States.

Your excellency then refers to Article 6, the text of which is as follows:

Art. 6. Those subject to the civil responsibilities referred to in Transitory Article 15 of the Political Constitution of the United Mexican States, promulgated on the 5th of February of the present year, may not benefit by the provisions of this law. In such cases a hearing shall be given to the Department of Gobernación.

Your excellency doubts the extension of the foregoing article, and requests a statement as to its true significance, fearing that it will also be made applicable to Americans resident in the places controlled by the rebels and who found it necessary to obey the measures dictated by them. Transitory Article 15 of the Constitution of 1917 empowers the Executive of the Union to issue the law of civil responsibility applicable to the authors, accomplices, and accessories, implicated in the crimes against constitutional order in the month of February 1913 and against the Constitutional Government. The said law of civil responsibility has not as yet been issued; but there can not be included within its scope persons who were not the authors or accomplices of, or accessories to, the crimes referred to in transitory Article 15 above cited. Consequently, only such persons as can be considered to have been the authors or accomplices of, or accessories to, the Huerta *coup d'état* and those who may have cooperated in a similar manner in any revolutionary attempt against the present authorities of Mexico, shall be excluded from the benefits of the law of indemnifications. Americans who may only have recognized the authority of the usurping administrations and who may have submitted to their com-

pulsory measures, shall enjoy the benefits of the law, and shall have the right to present claims for damages suffered by them.

Article 7 of the decree says:

The right to present claims shall expire within three years from the date of this law. Claims arising from the revolution begun in 1910, which may have been submitted to the consulting commission established by virtue of the law of May 31, 1911, shall be considered as having been presented within the period indicated, and shall be handled by the new commission, the files being taken in their present state, and the proceedings thereon being continued in accordance with the provisions of this law and its regulations.

In referring to the foregoing article, your excellency states that the Department of State presumes it was not the intention of the Mexican Government to exclude from the cognizance of the commission the claims arising from the revolution of 1910 which were not presented to the commission created by President Madero. The Department of State is right, since the term of prescription begins as from the date of the law, November 24, 1917, and grants to those who suffered damages and who may have presented their claims to the consultative commission established by the law of May 31, 1911, the privilege of not having to present new claims to the claims commission recently established, but that those already existing shall be considered as having been presented in due time, and shall continue to be handled in accordance with the law of November 24, 1917, and its respective regulations. The sufferers who may not have presented their claims to the commission created in 1911, may do so now to the new commission, within a period of three years beginning from November 24, 1917, in the manner indicated by the law and its regulations.

Your excellency then alludes to Article 14 of the decree, the tenor of which is as follows:

The findings of the commission with regard to the claims of foreigners, which may have been objected to by the parties interested in one of the two forms indicated in the preceding article, shall be submitted for arbitration to three persons, one of whom shall be appointed by the President of the Republic, another by the diplomatic agent of the country to which the claimant belongs, and the third by the other two selected. Should these be unable to reach a decision, the third shall be appointed by the President of the Republic from among the nationals of some country which has no claims for damages growing out of the revolution. The appointment of the arbitrators shall be made in accordance with the regulations governing this law, but it is to be understood that none of those selected shall have diplomatic or consular character.

Your excellency suggests, by instructions of your Government, that in case of disagreement by the two members of the board in the selection of the third member, the selection be made by the sovereign of a country having no claims against Mexico arising out of the revolution, and this is based on the expediency of avoiding the possible selection by the Mexican authorities of the three [sic]¹ members of the board of arbitration. The President of the Republic would be unable to modify the article mentioned, inasmuch as it forms a part of a law which only the Congress of the Union can amend. On the other hand, no head of a foreign state can have a greater interest than the President of Mexico in the impartiality of the arbitration board and in the justice of its findings, and it is not possible, furthermore, that the same appoint the three arbiters.

Your excellency then passes to the regulations of December 24, 1917, and refers in the first place to the provisions of paragraph IV of Article 10, relative to the powers which claimants should give to their representatives near the commission. Your excellency presumes that the measure stated requires that the respective powers be granted before Mexican officials, since nothing is said regarding documents granted abroad. The presumption of your excellency is unfounded, since the article mentioned establishes a modification in the provisions of civil law beneficial to claimants and to facilitate the granting of powers when the claim does not exceed 5,000 pesos. The validity of powers

¹ For the actual suggestion of the United States, see *ante*, p. 804.

granted in foreign countries shall be governed by the principles of private international law and by the general provisions of our legislation, in view of the fact that the regulations do not establish any modification nor create any ruling on the subject.

Your excellency then inquires whether there is a typographical error in the mention of the law of November 14, 1917, made in the final part of Article 12 of the regulations. There actually was a typographical error, since the law referred to in Article 12 is that of November 24, 1917.

Referring to Article 19 of the regulations, regarding the evidence which may be submitted to the commission, your excellency states that the Department of State requests it be informed as to the value and force of expert testimony drawn up outside of Mexico, and suggests the acceptance of affidavits sworn to before any official authorized by the laws of the United States to administer oaths. This provision is not necessary for the reason that documentary proofs originating abroad, which may be presented to the commission, will have the effects prescribed by our laws and the legislation of the United States, in harmony with the principles of private international law.

Article 20 of the regulations states:

Once the proofs and information referred to in the preceding article have been presented and received, the record shall be placed at the disposition of the interested party for a period of ten days, in order that he may make a written statement of his rights.

In referring to the preceding article, your excellency states that the Department of State desires to know if the words "interested party" mean the claimant or his representative, and if the intention of the article is that claimants residing abroad should have a representative in Mexico. It cannot be doubted that the words "interested party" may be applied to the claimant or his representative; and although neither the law nor the regulations provide expressly that claimants shall have a representative in this capital, the article hereinbefore mentioned would seem to indicate the necessity thereof, in view of the fact that the files will be placed at the disposition of the interested party at the office of the commission. The President concurs with the Department of State in believing that the period of ten days prescribed in Article 20 is too short, and is disposed to increase it to 60 days for the convenience of claimants.

Article 25 of the regulations provides that in the case of companies, the foreign nationality thereof shall be evidenced by means of duly registered copies of protocolization documents referred to in Article 24 of the commercial code. In reply to the inquiries made by your excellency in the premises, I am pleased to state that the words "duly registered" mean that the legalized instrument (*testimonio*) should be recorded in the public registry where charters of corporations in general are always registered. Article 24 of the commercial code says:

Foreign corporations which desire to become established or create sub-offices in the Republic, shall present and record in the registry, besides the legalized instrument of the protocolization of its statutes, contracts and other documents relating to its constitution, the inventory, or last balance sheet, if available, and a certificate showing that they have been established and authorized under the laws of the respective country, issued by the Minister of the Republic accredited thereto, or, in his absence, by the Mexican Consul.

The preceding article states the documents which shall be presented and recorded in the registry. For a better understanding of the foregoing articles, I beg to transcribe below Article 18 of the commercial code which specifies the offices in charge of the commercial registry:

ARTICLE 18. The commercial register shall be kept at the county or district judicial seats wherein the merchant resides, by the offices charged with the public registry of property; in the absence thereof, by the mortgage offices; and in the absence of both, by the judges of first instance.

Trusting that the preceding information, which I have the honor to give to the Embassy in your worthy charge under express instructions from the President of the Republic, will explain the question sufficiently and satisfy your excellency's Government, I am pleased [etc.]

E. GARZA PÉREZ

NETHERLANDS

**ABROGATION OF THE TREATIES OF JANUARY 19, 1839, AND MAY
23, 1878, CERTAIN PROVISIONS OF WHICH CONFLICTED WITH
THE SEAMEN'S ACT OF MARCH 4, 1915**

(See pages 3-5)

NICARAGUA

MESSAGE OF PRESIDENT EMILIANO CHAMORRO TO THE NATIONAL CONGRESS

File No. 817.032/25

The Chargé in Nicaragua (Curtis) to the Secretary of State
[Extracts]

No. 619

MANAGUA, December 24, 1918.

SIR: I have the honor to inform you that on the morning of Sunday, December 15, there was held the formal opening of the Nicaraguan Congress by President Chamorro, a copy of whose address I transmit herewith.

The outstanding characteristics of the message were its optimism and its friendly references to the United States, neither of which was unmerited (though the optimism is justified chiefly by the assistance rendered by the United States, as was not stated).

I have [etc.]

CHARLES B. CURTIS

[Enclosure—Translation—Extracts]

*Message of President Emiliano Chamorro to the National Congress,
December 15, 1918*

It is a source of special complacency for the Nicaraguan people and Government that you can undertake your tasks as the terrible evils of war cease and, with the blessing of universal peace, the complete triumph of democratic ideals dawns with brilliance. Once humanity is calm again and the balance of losses and gains from the tragic conflict now ended is struck, you will undoubtedly find that over all the ashes and material ruins there stands proudly the decisive triumph of the purest ideals of universal justice.

If the obtaining of the victory has required sacrifices animated by most enthusiastic patriotic sentiments, the complicated peace arrangements will require still greater ones, since this peace must be durable and therefore just. A clear vision of this great truth and complete devotion to the abstract principles which must be its foundation have been shown by the United States during their intervention in the war and in their decided influence on the peace negotiations, in which President Wilson has gone so far as to take a personal part.

Apart from the fact that the moral principles for which my Government determined to place itself frankly and decidedly on the side of the Allies remain unalterable, the result has convinced all Nicaraguans that that was the true and honorable path which our Fatherland had to take; and the manifestations of jubilation and sympathy made by the people in general, including those very ones who opposed that decision, when it was known that victory had been obtained, are eloquent proof that the Government knew how to interpret the sentiments of the Nicaraguan people and protect their interests.

Humanity, afflicted by the immense moral and material sacrifices which the victory has cost and by the peril in which were the ethical principles of Christian civilization, is anxious to find means to impede in the future the repetition of the tremendous conflict, and the statesmen of the great powers propose the formation of a League of Nations, united to maintain on the face of the earth international right and justice, through the recognition of identical rights to each and every one of them, without smallness militating against any one enjoying its full sovereignty.

Such a fraternal league, which fills with rejoicing all well-disposed hearts, and fills with just hope all weak nations, must bring with it to us a greater number of responsibilities, for it is impossible to imagine its existence except among nations which have similar political institutions, institutions practised and jealously guarded by their governments and their peoples. The enjoyment of liberty brings harnessed with it the duty of availing one's self of it in a conscientious manner, and of knowing how to submit one's self to its necessary limitations. We must learn to respect ourselves in order to demand that others respect us and thus be able to offer our honest and clean hand to all the peoples of the earth.

The champion of those ideals is the Government of the United States, a nation with which Nicaragua has continued to have the most frank and sincere relations, our interests and theirs following parallel paths.

Its adherence to these ideals decided me to enter without vacillation on its side in the war against the Central Empires and to offer through our Minister in Washington the cooperation of Nicaragua, so far as it could be useful, including the military service and the organization, on the same footing, of the whole country, for the purpose of increasing the production of articles of prime necessity for the consumption of the Allied Nations. The happy termination of the war took from us the opportunity of proving our determination, in which, with few and unavoidable exceptions, I counted upon the decided backing of the Nicaraguan people. This was proved by the promptitude with which they responded to the invitation which I sent to the capitalists and merchants of the country to get them to subscribe to the fourth Liberty loan, which subscription was offered upon the altar of Liberty in New York on Nicaragua Day, and which, while small by comparison with large sums subscribed by the people of the United States, is significant enough, since it comes from a people of limited financial possibilities and was subscribed, as can be seen, by a large number of persons to demonstrate sympathy for the cause of the Allies, while in the mind of none of them could there have been considerations of profit, considering the good returns obtained by capital here.

I said that it was significant enough because it well shows the sentiment of inter-American solidarity which we governors must take fully into account, since, even if the constitution of the League of Nations become a reality, it is evident that within it there will be organized groupings of more or less closely related nations and the smallest will certainly not be the one which ought to be constituted by all of us who live on the same continent, bound together by the ideals, sentiments and interests which constitute the doctrine of Pan-Americanism.

*Honduras.*¹—The old question with our sister of the North on account of part of the frontier line, which has not yet been defined, is being settled through friendly counsel of the Government of the United States, whose mediation both Republics accepted as a consequence of the incidents which occurred in the town of Las Trojas and in some other place on the left bank of the Coco, in territory which always has been and will be under the sovereignty and dominion of Nicaragua.

Since my entrance to the Presidency I have endeavored to solve this question, as much because it is opposed to the interests of both countries, as because the special affection which I have for Honduras, where I resided for some time, and the old friendship which binds me to the distinguished gentleman and the very great public man who rules its destinies seemed to me to facilitate the task of a friendly settlement, in the midst of the dangerous feelings which are easily excited in discussions of this nature. In spite of all my desires to keep the question within the bounds of the greatest cordiality, there was a time when the Government of Honduras sent troops which entered a small portion of our territory which never has been in dispute. In view of this, the Government limited itself to ordering a guard of 12 soldiers who went to the same place in order to claim its sovereignty. Our guard was received by the head of the Honduran forces with every courtesy and they camped in the same place, the two sister flags flying in the same territory for some time until mediation having been accepted both retired in order that the question be settled by that means. The incident which I have reviewed shows clearly the puerility of taking to the forbidden fields of violence matters which can and must be settled in a peaceful manner.

¹ See "Boundary Dispute: Honduras and Nicaragua," *ante*, p. 11.

The Government has designated our Minister in Washington, Don Diego Manuel Chamorro, as head of the commission which shall discuss with the respective commission of Honduras and with the mediation of the North American Government the manner for settling definitely the said boundary line.

*Costa Rica.*¹—I have to inform you that I have not yet been able to renew official relations with the political régime which rules in Costa Rica, because there exist causes which prevent me from recognizing General Federico Tinoco as the Constitutional President of that Republic. The time which said régime has remained in existence forces me to explain clearly and faithfully the reasons which I have had for not granting that recognition.

Therefore, I must state that I recognize in all its extension and with all its consequences the right which every people have for giving themselves the government which most pleases them and for establishing, supporting, or overthrowing the political institutions as may please them. I recognize that in order to obtain these ends peoples have the right to make use of all the legal means possible, and, if these do not suffice or if they miscarry, to resort to extreme measures for the attainment of those ends, which are suitable for their existence. But these rights are of the people and serve as their safeguard against the excesses and oppressions of the governments; but never can they serve to justify *coups d'états* or army movements contrary to the constitutional order. Unfortunately, this last class of movements is that which has been most frequent in the history of our civil wars, whence arises the sterility of that which in Spanish-America we have sometimes called revolutions.

In consequence of these ideas, the Government of Nicaragua has never shown hostility to that of General Tinoco and fulfills by the means recommended by international law, the strictest neutrality as to the matters of internal politics of Costa Rica, without disturbing in the slightest way commercial communications which are intense between the two closely related and neighboring peoples; but it reserves to itself the sovereign right of choosing the other governments with which it desires to cultivate official relations and with this object in view directs its course by those high principles which rule democracies, principles of rigid ethics, which must be applied without vacillation in the interest of the normality of our own political life and of the solidarity, which grows daily closer, which exists between the peoples of the earth. . . .

With peace have come great modifications in the economic organization of society, and the intervention of the state in industry and commerce, which appeared to be a temporary means to care for the urgent needs of the war, tends to be converted into a current system of government and penetrates slowly but surely, even in countries in which individualism seemed to have the most fixed institutions, as in the United States and England. . . .

*Finance and public credit.*²—The difficult situation created in the world by the war, if it had grave effects upon our national economy, has in exchange given us great benefits once our activities and resources have adapted themselves to the new methods of commerce and production. The continued evolutions of progress in all branches of human life bring benefits in themselves and it is only necessary that man's intelligence try to take advantage of them instead of resisting or denying them.

Our exports in the present year have nearly doubled in value: and this figure is certainly not the happiest feature, but rather the class and variety of the products which we have sent, chiefly agricultural, that industry constituting the logical development of our country.

The mercantile movement has not been only a mass of wealth for some few merchants but extends its influence over the generality as is indicated by the increase of the medium of circulation and the growth of the monetary conversion fund. There are now C\$2,960,000 in circulation with a guarantee of \$1,300,000 deposited in New York, index and reserve of the trade balance in our favor.

In spite of all the pessimistic prognostications which the political opposition made as to the financial arrangements of the Government, the first year of its operation proves that my efforts have not been sterile and that the public administration has known how to get successfully out of all its difficulties and

¹ See under Costa Rica, "Political Affairs, etc., *ante*, p. 229.

² See "Financial Affairs," *post*, p. 823.

has complied faithfully with all its engagements, the only way to obtain credit and to make a firm foundation for our economic welfare.

One of the clauses which provoked the greatest attacks is the one which stipulates that in case the internal revenues should fall below C\$180,000 in any quarter, the administration and collection should pass into the hands of the Collector General of Customs. I am pleased to be able to announce to you that those revenues have become constantly greater and that during the present year they have produced a little more than C\$1,150,000, that is, that we have been able to pay with them alone our budget of C\$95,000 per month and to obtain even a small surplus, which will increase the overplus of the customs receipts, which you will dispose of for the progress of the Republic.

The Ethelburga loan, whose service was suspended for a time during the past administration, has been paid faithfully during the year, and the capital represented by the sealed bonds is £1,159,000.

What we owed to the New York bankers for the Treasury bills on December 17 of last year was the sum of	\$530,000.00
To the payment of which were devoted during the year the dividends of the railroad and of the bank	218,872.00

Which leaves a balance of	\$311,872.00
There are also due to the New York bankers on the deferred bills, 1. e., on the Emery claim	\$263,986.12

The interest for all the year which corresponds to the foregoing credits has already been paid from the customs revenues of the Republic.

This is the total amount of our foreign debt, a very small amount compared with what other nations owe, even nations of inferior economic conditions. If the Republic continues its serene progress, even without the improvement which we have a right to expect owing to the conclusion of the war, and counting on the good judgment of the Nicaraguan people, completely dedicated to work, without hearkening to the songs of the siren of those ambitious for power, the Republic will very soon be free from its present liabilities, since of the surplus of the revenues which the Government has on deposit with the Banco Nacional, which on the last day of November amounted to C\$402,113, more than one hundred thousand dollars was devoted to the New York debt and an equal amount to the Ethelburga.

The High Commission is complying religiously with the service of the internal debt, for whose payment there were issued C\$3,800,000 of bonds. The first half year's interest was duly covered and there also was amortized by lot C\$18,350.

The revenues set apart for this purpose are more than sufficient and will surely leave a surplus.

They are: the tax on capital, the additional 12½ per cent on import duties, half of the produce from the sale of national lands and excise taxes. For the half year to be paid on February 1 of next year, there was already deposited in the bank on November 30 last the sum of C\$55,449, in spite of the fact that the three last named taxes were not collected throughout the year.

Such, briefly, is the result of the economic arrangements which I have carried out and which, like the solid cement hidden under the earth, will serve as an imperishable foundation for the future aggrandizement of the Republic.

For the first time in many years the Honorable Congress can hear that we have not only faithfully complied with our obligations, paying punctually the general budget of expenses, but offer it a considerable surplus ready to give an impulse to the progress and aggrandizement of the Fatherland and that the time is not distant when Nicaraguan bonds will be quoted on the exchanges of the world with the credit which comes from the honor and not from the size of a nation.

FINANCIAL AFFAIRS¹

Settlement of Claims against Nicaragua by the Commission on Public Credit; Authorization by the Congress for a Bond Issue

File No. 817.51/978

The Minister in Nicaragua (Jefferson) to the Secretary of State

No. 383

MANAGUA, June 19, 1917.

SIR: For the information of the Department I have the honor to transmit herewith the first interim report of the Commission on Public Credit, as prepared by Mr. A. F. Lindberg, Commissioner. That the Department may be kept fully advised as to the work accomplished by the commission I have requested Mr. Lindberg to prepare from time to time such reports.

I have [etc.]

BENJAMIN L. JEFFERSON

[Enclosure]

The Commissioner on Public Credit (Lindberg) to the Secretary of State

MANAGUA, June 18, 1917.

SIR: I have the honor to present herewith a brief review of the work accomplished by the Commission on Public Credit in the first three months of its existence.

Number of claims received

To date 1,440 claims have been presented, including those of Nicaraguans and foreigners. The list of creditors is approximately 4,500. The time limit for presentation of claims on the west coast of Nicaragua expires July 30 next; for the east coast August 30 next; and for claims of creditors residing outside of Nicaragua an extension beyond three months is within the discretion of the commission. The total of these claims aggregates \$7,500,000.

Registration of claims

The claims are being currently registered, first, as presented by the creditor, showing principal, accrued interest to December 31, 1916, and total; second, the claims will be classified by the commission under various headings showing their origin; third, the amount of the award will be shown, payment data, and data of the allotment in bonds.

Friendly agreements with creditors

It was decided that as far as possible, consistent with the character or origin of the claim and the economic situation of the Government, friendly agreements with creditors, rather than arbitrary rulings without hearings, should be the policy of the commission. I feel safe in asserting that \$1,000,000 has been lopped off the debt total by voluntary concessions made by Nicaraguan and foreign creditors. This fact alone demonstrates that the commission is a success, as well as the feeling among foreigners and natives that the commission would give them fair and equitable treatment. A partial list of these reductions, by names and amounts, is included in Exhibit "A", herewith submitted.²

Cash available for debt purposes

The commission has been unable to make final awards on cash loans to the Government or make any definite promises, through uncertainty as to the amount available of the Canal treaty funds. From the start negotiations were at once begun with creditors whose documents represented actual cash loans to the Government, as well as with the holders of obligations in amounts of

¹ Continued from *Foreign Relations*, 1917, p. 1112.

² Not printed.

\$100,000 and over. It was the belief of the commission that a voluntary reduction on the part of these cash creditors either in the accrued and unpaid interest charges or in the interest rate, would serve as a lever to secure larger concessions from the holders of less preferred credits. The commission has definitely pledged itself that in the event of there being \$2,000,000 cash available, at least 50 per cent of the principal of these loans would be paid the holders in cash.

Origin of the debt

While a fair idea was had of the origin of the debt, acquired in the preparation of the statement sent to the Department under date of August 24, 1916,¹ this statement was merely a classification and listing of the data as disclosed by the records of the Government, or from information given to me in my capacity as an official of the customs service. I had then no authority to examine books, records and accounts, to call on witnesses, to ask for testimony and proof, etc., as is now within the scope and authority of the commission. The underlying value of the debt, represented by cash loans to the Government and merchandise claims (principal value only) excluding interest, is approximately \$2,000,000. Considerable time has been spent in analysis in order to arrive at this figure. The balance of the debt, approximately \$9,000,000, may be classed under war claims, arising from direct and indirect losses from civil war and military operations, cancellation of concessions and arbitrary acts of constituted governments.

Problems and purpose of the commission

The following are in a general way the fundamental principles to be followed by the commission in the making of awards:

- (1) To eliminate entirely or reduce materially the accrued and unpaid interest on all classes of obligations, as well as reduce the rate of interest.
- (2) To reduce exaggerated and excessive war claims to an amount consistent with the present financial situation of the Government, and a conservative estimate of the future financial resources of the Government; and to reconcile the interests of both Nicaraguans and foreigners in this class of claims.
- (3) To force speculators in Government documents to accept the purchase price, if possible, of their certificates of indebtedness.
- (4) That in the exchange of non-interest bearing documents for interest bearing bonds, the commission will make substantial reductions, based on future interest payments for account of such refunded obligations.
- (5) To eliminate some of the excessive profits charged in merchandise bills and accounts, the vendors having taken advantage of the necessities of the Government.
- (6) To cancel all obligations where creditors have not complied with laws and fiscal regulations in order to secure the Government's acknowledgement of their indebtedness, or whose claims are outlawed by the statute of limitations. In this connection, the commission will also take into consideration the fact that creditors shall not lose their rights through ignorance, carelessness or malice on the part of Government officials, nor where the creditor was justified in believing in the right and authority of the Government official to bind the Government in a contractual obligation.
- (7) To follow the principle of set-off when a creditor is also a debtor of the Government.
- (8) That pensions and allowances, subventions to foster and further religion, education, charity and public improvements, be scaled according to the tenor of No. 2.
- (9) That old customs bonds of the Zelaya and Madriz régimes still in circulation, as well as those refunded in 1913, be valued on the basis of rate of issue, premium paid or discount taken, rate of exchange current at time of issue, as well as proof that value was actually paid to the Government in exchange for these bonds.
- (10) That the internal revenue bonds of 1913 be valued on the basis of the character of the documents exchanged, as well as on the basis [of whether] the subscriber did or did not comply with the law in receiving these bonds.

¹ Not printed.

- (11) That all transactions affecting cash loans to the Government, as well as transactions in terms of foreign moneys, be valued with due consideration of the official rate of exchange as well as the market rate of exchange, eliminating heavy profits in exchange, the Government as a rule being the sufferer in exchange transactions.

Interest on Canal treaty funds

I venture to make the query if in some way it could not be arranged to pay a small rate of interest on the unexpended balance of the Canal treaty funds, by depositing it in trust or escrow in some bank or trust company, until the work of the commission is concluded? If this could be done under the fiscal regulations of the Treasury Department and the decision of the Comptroller of the Treasury, it would be very well received by the Government of Nicaragua, and would contribute indirectly towards the maintenance of the commission.

Changes in personnel

Mr. James H. Paxton, appointed arbitrator of the commission in case of dispute, has resigned and left Nicaragua. Mr. Martin Benard, president of the commission and Minister of Finance, resigned the early part of June, which I deeply regret. On account of the resignation of Mr. Benard I have individually signed this report.

It is my intention to present a full and complete confidential report of the work done by the commission, as soon as possible after September 14, 1917, aside from any official report which may be rendered by the commission.

Very respectfully,

A. F. LINDBERG
Commissioner

File No. 817.51/1079

The Minister in Nicaragua (Jefferson) to the Secretary of State

[Telegram]

MANAGUA, January 8, 1918, 11 a. m.

President Chamorro, in conformity with Article 7 of financial plan, has designated Don Octaviano César as the Nicaraguan member of the High Commission. I consider the appointment excellent.

Chamorro requests that the Secretary of State make his appointments at this time. I am of the opinion that the appointment of Lindberg will be satisfactory, as well as that of Professor Jenks as umpire.

JEFFERSON

The Secretary of State to the Minister in Nicaragua (Jefferson)

[Telegram]

WASHINGTON, January 14, 1918, 4 p. m.

Your January 8, 11 a. m. Secretary of State in conformity with Article 7 of financial plan has appointed Lindberg, who is member of permanent group committee of Nicaragua, and has also appointed as umpire Professor Jenks of same committee.

Please cable fully results of reports of Debt Commission and inform Department as to exact sum in hands of Nicaraguan Government to pay all claims. What is intention in regard to settlement of Mixed Claims Commission's awards as well as awards of Debt Commission? How large an issue of bonds will be necessary? Is arrangement satisfactory to all parties, including American, British, Italian and French claims?

LANSING

File No. 817.51/1081a

The Secretary of State to the Minister in Nicaragua (Jefferson)

[Telegram]

WASHINGTON, January 14, 1918, 5 p. m.

Minister of Finance cables Nicaraguan Legation that he needs \$50,000 to cover 1917 budget. Cable your opinion as well as Lindberg's as to this matter and how you consider it should be paid, if you are favorable to payment.

LANSING

File No. 817.51/1084

The Minister in Nicaragua (Jefferson) to the Secretary of State

[Telegram]

MANAGUA, January 21, 1918, 11 a. m.

Department's January 14, 4 p. m. Nicaraguan Government has authorized issue of bonds not to exceed \$4,000,000 under ruling of High Commission. Due to lack of knowledge as to results of final offers on English, Italian, and French claims of diplomatic character, Debt Commission presents the approximate total of \$5,200,000.

Italian and French representatives recommended their Governments to accept awards. British Legation claim is still pending. Last offer was £8,000 cash and £2,000 bonds. Spanish claims are practically settled with consul. Believe friendly agreements will be made. Complaint has been made about Dutch diplomatic claim but it deserves no better treatment than other Dutch claims.

Mixed Claims Commission judgments have been untouched in the hands of original holders and are to be paid approximately 15 per cent cash and 85 per cent bonds, while claims in the hands of third parties and speculators have been scaled to 50 and 30 per cent. Claimants who have not presented data as to their judgments have been protected and a reserve set aside. The commission has refused to increase amount awarded on Mixed Claims Commission judgments or to reopen cases where claim was ruled out.

Following being therefor partial payment parliamentary documents practically decided on which may be affected as to decision on budget deficit for 1917; on actual cash loans to Government 45 to 50 per cent in cash of principal only; on merchandise claims after scaling 30 to 35 per cent in cash; tobacco certificates 30 per cent in cash principal only; on Government budget salaries last four months of 1916 given preferential treatment all cash; on periods prior 20 per cent scaling and all cash salaries only. Other budgetary obligations such as services, subventions, and pensions scaled heavily; all awards of \$100 and less to be paid in cash. Unpaid and accrued interest on all Government obligations has been entirely eliminated. All Government documents of credit sold or transferred have been scaled.

Of a total of 12,008,030 creditors claim \$6,000,000 which have been reduced to a little over \$2,000,000. Awards are to be settled by payments in checks or drafts and delivery of interim receipts pending receipt of definite bonds.

Sequence of payments as follows: First, creditors who claim over \$100,000; second, Senators and Deputies of Congress now in session who have claims; third, the Department of Managua and thereafter by Departments according to the amount of debt. Payments to claimants are to be made direct as far as possible. Cannon and Groce claims are to be paid in full in cash.

Documents in the hands of direct heirs are not sealed on that account except in holders of Morales loan. In bankruptcy cases where claimant forced to accept Government documents and at less than amount of his proven claim, some consideration is given where the information presented can be relied on. This will help foreign trade credits. Seven hundred war claims of 1912 settled, each on its merits, and very few command more than 40 per cent.

Balance of customs revenues on November 15 held by Ham and available for transfer to Nicaraguan Government is \$1,092,695.96.

JEFFERSON

File No. 817.51/1083

The Minister in Nicaragua (Jefferson) to the Secretary of State
[Telegram]

MANAGUA, January 21, 1918, 4 p. m.

Department's January 14, 5 p. m. Budget deficit to date for the year 1917 shows about \$64,000 in arrears. The Government says that it will only pay \$50,000.

From whatever funds used for this purpose, the same procedure as with canal funds should be followed. In addition thereto the two Governments should be in accord, whether the money should be applied *pro rata*, some claims paid in full, others sealed by varying percentage, or eliminated entirely.

With reference to the above deficit and based on a note just received from Foreign Office, and referring to the Department's December 14, 4 p. m.,¹ if it meets with approval of the Department, and setting aside the \$50,000, I will address the Minister for Foreign Affairs in the following sense:

The money in the hands of Ham shall be transferred to the order of the High Commission in Managua to be credited to a special account for the Public Credit Commission awards as well as the available canal functionary monies, these latter funds to be left in the United States Treasury for the present. Awaiting decision as to the advisability of their transfer to the National Bank of Nicaragua in Managua or designating a temporary depositary in the United States. Disbursements shall be made from this account by means of checks or drafts to be signed by the two active members of the commission.

I believe that payments should begin as soon as possible.

JEFFERSON

¹ *Foreign Relations*, 1917, p. 1153.

File No. 817.51/1094

The Minister in Nicaragua (Jefferson) to the Secretary of State

No. 473

MANAGUA, January 29, 1918.

SIR: I have the honor to enclose herewith for the information of the Department a copy and translation of the bond law that was passed by the Nicaraguan Congress in extraordinary session, on December 14, 1917, and published in the Official Gazette, on December 20, 1917.

The Congress authorized the issue of four million cordobas at 5 per cent. The provisions of the law were enacted in accordance with the financial plan, and the bond service is to be supervised by the High Commission. The stipulated guarantees, embodied in the act pledging 12½ per cent of surcharge on the receipts of the customs revenues, half of the tax on capital and contingent sum to be applied after the public debt service is taken [care] of, should insure the payment of the interest and amortization of the bonds. However, the successful operation of this law will rest with the High Commission.

The Nicaraguan Government is very much interested in having published attractive bonds as cheaply as possible, and it has been suggested that it might be possible that the United States Government would consent to do this work, it being understood that this Government would pay a small amount over the actual cost of the printing.

I have [etc.]

BENJAMIN L. JEFFERSON

[Enclosure—Translation]

Bond law of December 14, 1917¹

DECREE NO. 25

The Senate and Chamber of Deputies of the Republic of Nicaragua decree:

ARTICLE 1. To authorize the Executive power to make the consolidation and payment of the public debt on the following bases:

- (a) One part of this debt shall be paid in cash and the other in guaranteed customs bonds, which will be spoken of later. The distribution shall be made in conformity with the settlement made by the Public Credit Commission.
- (b) The amount of bonds to be issued will be four million dollars, which shall bear interest at five per cent (5%) annually, which shall be payable semiannually. These bonds can not be applied to other purposes than the payment of the amounts recognized by the Public Credit Commission.
- (c) If after the interest be paid from the revenues appropriated for the bond service there remains a surplus, it shall be applied to the amortization of the principal, in conformity with this law and the regulations which may be issued.
- (d) For this bond service the following shall be appropriated: the 12½ per cent surcharge on the import duties of the customs of the Republic, and 50 per cent of the direct tax on capital. When the obligations in the financial plan have been met, so that the Government may freely dispose of the product of the capital tax, the total of this tax shall be applied to the customs bond service. If at any time there is wanting any amount to complete the sum of two hundred and forty

¹ *La Gaceta*, December 20, 1917.

thousand dollars (\$240,000) annually for the payment of interest and the amortization, at least one per cent (1%) on the principal of the bonds, that amount which is lacking to complete said sum shall be taken from the 50 per cent residue of the surplus revenues, according to Article 8, paragraph (*d*), of the financial plan. The additional tax of 12½ per cent shall be collected by the Collector General of Customs and deposited in the National Bank of Nicaragua, Incorporated, to the order of the Minister of Finance, and by him to the order of the High Commission, to which the following article refers.

ART. 2. The bonds shall be called guaranteed customs bonds, shall have the form and values prescribed in the provisions of the law, and shall be paid by the National Bank of Nicaragua, Incorporated, on order of the International High Commission, which shall operate as fiscal agent of the Republic. No bond shall be valid without the registration and authentication of the High Commission.

ART. 3. The interest shall be paid to the bondholders semiannually, the first of March and the first of September each year, for the preceding half-year which terminates June 30 and December 31 respectively.

For the payment of interest and principal or redemption of the bonds, the funds appropriated for the debt service shall be deposited in the National Bank to the order of the High Commission.

ART. 4. The Republic reserves to itself the right at any time of adding other revenues or funds for the payment of the debt service or the rapid redemption of the bonds.

Also at any time and without invalidating the provisions in Article 1, paragraphs (*c*) and (*d*), and the Articles 5, 10 and 14 of the present law, the Government shall be able to purchase with part or the whole of the surplus of its receipts, or any other funds which may be at the disposal of the Republic, at least at par, the guaranteed customs bonds, before doing which it shall put notices in the papers, at least a month in advance, announcing that a certain sum will be applied to the purchase of the bonds, in order that those interested may send their offers to the High Commission: and it shall use the sum which the Government may have placed at its disposal, buying the bonds which may be offered at the lowest price.

ART. 5. The guaranteed customs bonds canceled, redeemed, or purchased by the Republic shall be canceled by the fiscal agent and shall not be reissued. However, the interest due on each bond, redeemed or purchased, shall increase the debt-service fund in order that it may be applied to the payment of the interest and principal of the bonds issued and still in force.

ART. 6. The bonds may be transferred or mortgaged by order or indorsement through any means which the laws of the Republic may establish. Written advice of the transfers and mortgages shall be given to the agent for the purpose of registration.

Neither the Republic nor the fiscal agent shall incur any responsibility if, for the purpose of payment or any other purpose, they abide by the registry as to the ownership or existing liability.

Nothing of the foregoing in this article shall prevent them being indorsed to bearer; and in that case, once the corresponding advice has been received, no other shall be necessary for the successive transfers.

ART. 7. The Public Credit Commission will send the fiscal agent an account of the debts of the Republic, with a statement of what are to be paid in cash and what in bonds. The commission will give to the creditors a receipt or certificate which will have the form indicated in the provisions of this law and will state the amount which is to be paid in bonds. When these have been prepared they will be delivered to the fiscal agent in order that he may give them an exchange for the certificates or receipts issued by the Public Credit Commission. The bonds represented by receipts shall bear interest from January 1, 1918.

ART. 8. The principal and interest of the guaranteed customs bonds shall be paid in this capital. Also they may be paid in other places which the High Commission may designate, provided it does not increase the expense of the Republic, and the bondholder agrees to it.

ART. 9. The expenses for the issuance of the bonds, their inscription and registration, and other expenditures which may be incurred, in conformity with the present law, shall be paid from the debt-service fund.

The fiscal agent shall appoint the employees necessary for carrying on the work to which this law refers; and the amount of their salary, as that of the other employees, shall be determined by Congress and paid from the debt-service fund.

ART. 10. If any creditor of the State who has certificates or receipts to which Article 7 refers, issued by the Public Credit Commission, does not present them for exchange for guaranteed customs bonds, in accordance with the law, the bonds, to which the owners of the certificates or receipts not presented would have a right, shall remain on deposit with the fiscal agent, and any payment of interest or amortization in connection with such bonds shall also remain on deposit with the agent.

The holders of certificates or receipts mentioned in the former paragraph can at any time, before January 1, 1919, exchange their documents for guaranteed customs bonds, to which he shall have the right together with the accumulated interest and amortization of the principal. The holders who do not present their certificates or receipts within the time designated shall lose all right to exchange them for the guaranteed customs bonds, and the bonds which remain unexchanged, the time having expired of which mention has been made, shall be canceled by the fiscal agent, and all sums retained for those bonds shall be applied to the debt-service fund.

Any holder of public credit documents comprised in the plan of settlement who, accepting the decisions of the Public Credit Commission, shall present his documents in exchange for guaranteed customs bonds after January 1, 1918, shall be considered as having abandoned and renounced, in favor of the Republic, any interest whatsoever which may have accrued on the said documents.

ART. 11. The guaranteed customs bonds shall be exempt from all taxes and imposts now established or which may be established in the future in the Republic, including the direct tax on capital. Fiscal stamps or stamped paper shall not be necessary for any documents whatsoever necessary for the settlement of the public debt or required by the present law, or for those which the fiscal agent may require.

The fiscal agent shall not be responsible for the faults or bad conduct of any agent, attorney, bank or banker, named or selected by him in the discharge of his duties, if such agent, attorney, bank or banker shall be chosen with reasonable care; nor for any cause related to his charge, except through his premeditated bad conduct.

The fiscal agent shall have in addition to the rights, faculties, and duties conferred in other forms by this law the following rights, faculties, and duties:

- (a) He shall receive from time to time all the sums which may be paid him in conformity with this law, and he shall use and apply them in the way authorized by the same.
- (b) Subjecting himself to the terms of this law, he shall work according to written order of the Minister of Finance of the Republic; and said order, as has been expressed, shall serve as complete protection to the fiscal agent for acts which he may perform in accordance therewith.
- (c) The fiscal agent shall be responsible only for the funds which may be received by him in cash in the city of Managua from the Republic or for its account.
- (d) All the representations and provisions contained in this law and in the bonds are made by and in the name of the Republic, and the fiscal agent shall not be responsible in any form whatsoever for the same, nor for any statement contained in them, nor for any act or thing done by him for the reason of any representation whatsoever made by the Republic or by any of its agents or representatives. The fiscal agent shall be protected, if he acts by virtue of whatsoever advice, petition, acquiescence, certificate, bond or any other paper or document which he believes genuine and to be signed by the person or persons in whose name it appears to be signed. He may consult attorneys resident in Nicaragua, and the fiscal agent shall not incur any responsibility through any act which he executes or permits in accordance with the opinion of such attorneys. The fiscal agent shall not incur any responsibility with regard to the validity of the foregoing of said bonds, nor with respect to the authenticity, validity or value of any credit documents whatsoever authorized by the Ministry of Finance or the Public Credit Commission and deposited in his

possession, nor shall he incur any responsibility, excepting as it is expressly provided herein, regarding the disposition of said bonds or the application of the product of the same. The fiscal agent shall not incur responsibility if the Republic or any person or persons mentioned herein do not fulfil or comply with any stipulations, agreements, or dispositions of this law.

Nothing herein contained shall be deemed or construed as creating any obligation, or as conferring any privilege or benefit in favor of any of the holders or owners of any obligations or other evidences of indebtedness of the Republic now outstanding, or any creditor or concessionnaire of the Republic, or any person or corporation claiming to be such creditor or concessionnaire.

The fiscal agent may, when he deems it proper, dictate the measures which will tend to protect the rights of the bondholders to which this law refers.

ART. 12. The High Commission referred to in this law shall be the same as that established by Article 7 of the financial plan, which was approved November 14 last, the High Commission which shall perform the function of fiscal agent created herein.

ART. 13. The High Commission or fiscal agent, once it has received from the Public Credit Commission the report prescribed in Article 7 of this law, shall issue checks or drafts in favor of the creditors of State for that part which has to be paid in cash, and shall deliver to them bonds in exchange for the certificates or receipts which the article mentioned indicates. Moreover the High Commission shall have the other powers which are granted to it in the provisions of this law.

ART. 14. The payment of the fund of amortization on the principal of the guaranteed customs funds, provided in Article 1, shall be made in the following manner: The number of the bonds corresponding to the sum which constitutes the debt-service fund to be disposed on the dates given in Article 3 for the purchase or redemption of the bonds shall be determined by drawing lots within the month following the first of January and the first of July of each year. All the drawings shall be made by the fiscal agent in the presence of the treasurer general of the Republic and of the president of the tribunal of accounts or of representatives appointed by them, and of one witness of good standing whom the fiscal agent shall select. The numbers of the guaranteed customs bonds selected in the drawing shall be published in *La Gaceta* and the interest on any bonds, so selected in the drawing for their purchase or redemption, shall cease to be paid on such bonds from the respective dates of January 1 and July 1, on whichever date the drawing may have been made. Within the month following the date on which the drawing had been made, the fiscal agent shall place to the order of the owners inscribed on the bonds, which may have been selected in the drawing, the amount of the principal of said bonds.

ART. 15. The Executive Power is authorized to prescribe the regulations which he may judge necessary to carry this law into effect.

ART. 16. The law of November 11, 1913, and all the other laws and decrees which are contrary to the provisions of this law are hereby repealed, and this law shall become effective upon its publication.

Done in the Hall of Sessions of the Senate Chamber, Managua, December 7, 1917.—VICENTE ROMÁN, S. P.—SEBASTIÁN URIZA, S. S.—M. CALDERA MIRANDA, S. S.

To the Executive Power, Chamber of Deputies, Managua, December 10, 1917.—RAMÓN CASTILLO, C., D. P., GABRIEL RIVAS H., D. S.—FERNANDO IG. MARTÍNEZ, D. S.

Therefore, let it be executed.—President's House, Managua, December 14, 1917.—EMILIANO CHAMORRO.—The Minister of Finance.—OCTAVIANO CÉSAR.

File No. 817.51/1083

The Secretary of State to the Minister in Nicaragua (Jefferson)

[Telegram]

WASHINGTON, January 31, 1918, 4 p. m.

Your January 21, 4 p. m. Is there any other way in which Government of Nicaragua could pay 1917 budget deficit? Department

would not feel justified in sanctioning approval of payments for this deficit until further information is received. Nevertheless, it would appear advisable in all events that High Commission should decide upon these payments in same way as other payments. Inform Department by cable if full report upon labors of Public Credit Commission has been mailed and if so, when it should reach Department. Department concurs with you in belief that payment should begin as soon as possible but desires to have complete information in regard to awards of commission and sealing of debt.

Upon receipt of your reply to this cable Department will answer you in regard to the proposed note to the Minister of Foreign Affairs.

LANSING

File No. 417.00/242

The Commissioner on Public Credit (Lindberg) to the Secretary of State

MANAGUA, February 4, 1918.

SIR: I have the honor to submit herewith a copy of a joint report presented by the Commission on Public Credit to the Minister of Foreign Affairs, under date of November 20, 1917, to be included in his annual report.

The Exhibit "B" referred to is omitted as it corresponds to Exhibit "A" in my interim report No. 1 sent to the Department under date of June 18, 1917. The list of fundamental principles, herewith annexed, is an amplification of the subject matter under "Problems and Purpose of the Commission," pages 2-3, paragraphs 1-11, in interim report No. 1.

I could never persuade the Minister of Finance to officially sign these for the records of the commission (prepared August 16, 1917) as he did not agree, until very recently, to the elimination of all accrued and unpaid interest on every class of obligation. As this was the foundation stone of my work, all the other awards on many classes of claims hinged directly on its uniform application.

Very respectfully,

A. F. LINDBERG
Commissioner

[Enclosure 1]

Fundamental principles enunciated as the bases of awards of the Commission

The following fundamental principles are hereby promulgated and enunciated as the bases of judgment of the Commission in the making of awards.

The awards of the commission are made on the following bases:

- (1) Law and equity.
- (2) Financial condition of the Government.
- (3) Presentation of facts.
- (4) Equal treatment of foreigners and Nicaraguans.
- (5) Friendly agreements with creditors wherever possible. Holders of good credits will be urged to make concessions to the Government; holders of doubtful and excessive or exaggerated credits will have their claims sealed by the commission.
- (6) Foreigners cannot appeal to diplomatic channels in the settlement of their debts, demands or claims, unless there is denial of justice, as provided by Articles 13, 14 and 15 of Chapter VI of the Constitution of Nicaragua.

(7) No part of the true, legitimate and acknowledged debt of the Republic will be repudiated. Holders of credits who are not satisfied with the awards of the commission may accept or decline the award as they see fit. However, in this connection the two following points are emphasized:

- (a) The rulings of the commission will undoubtedly serve as precedent for future action on or consideration of any outstanding debt, and
- (b) The statute of limitations can be applied to public debt obligations as well as to private obligations.

(8) A negotiable document of public credit does not gather additional value or strength through the transfer of title; that is, by sale, assignment, pledge, gift or devise. There are two exceptions to this rule of which the commission may take cognizance, if the circumstances of the case and financial condition of the Public Treasury so permit:

- (a) In case of the innocent purchaser of Government documents for value.
- (b) In cases of involuntary bankruptcy where less than 50 per cent is paid on the proven claims of general or unsecured creditors.

(9) The maximum interest rate on any class of debt, demand, or claim, in case any interest be allowed, shall not exceed six (6%) per cent per annum, simple interest.

(10) That no capitalization of interest, at any rate, will be recognized. To eliminate entirely or reduce materially the accrued and unpaid interest on all obligations.

(11) That no interest will be allowed on merchandise accounts, war claims of any kind, claims arising from the cancellation of concessions, or any similar claims which at present do not include the obligation to pay interest.

(12) That in the exchange of non-interest-bearing documents for interest-bearing bonds, the commission will make substantial reductions, based on future interest payments for account of such refunded obligations.

(13) Certain credits will be preferred, but only in the proportion of cash and bonds. No claims except death claims (violent deaths) will be paid wholly in cash. Otherwise all claims will be settled at the same time, with the possible exception that amounts less than \$200 may be handled in a special way, depending on the lowest denomination of the refunding bond to be issued in part settlement of the internal debt.

(14) Cognizance will also be taken of payments on account in awards pertaining especially to war claims and war exactions.

(15) Judgments of the Mixed Claims Commission in the hands of the original claimants or direct heirs, will not be scaled except by voluntary and friendly agreements with the original claimants.

(16) Speculators in Government documents will be forced to accept the purchase price of their certificates of indebtedness.

(17) Budget obligations such as salary and wage rolls, if incurred and payable between September 1 and December 31, 1916, will not be scaled, if in the hands of original holders, unless by voluntary agreements.

(18) All obligations where creditors have not complied with laws and fiscal regulations in order to secure the Government's acknowledgment of their indebtedness, or whose claims are outlawed by the statute of limitations, will be canceled. The commission will take into consideration the fact that creditors shall not lose their rights through ignorance, carelessness or malice on the part of Government officials, nor where the creditor was justified in believing in the right and authority of the Government official to bind the Government in a contractual obligation.

(19) To follow the principle of set-off when a creditor is also a debtor of the Government.

(20) That all transactions affecting cash loans to the Government, as well as transactions in terms of foreign moneys, be valued with due consideration of the official rate of exchange, eliminating heavy profits in exchange, the Government as a rule being the sufferer in exchange transactions.

[Prepared for signature at Managua, August 16, 1917, but never signed.]

[Enclosure 2—Extract]

The Commission on Public Credit to the Nicaraguan Minister of Foreign Affairs (Urtecho)

MANAGUA, November 20, 1917.

SIR: In accordance with your verbal request the Commission of Public Credit has the honor to present herewith a preliminary report of its activities to date. As the commission is still in session no detailed schedules of figures are presented.

ORIGIN OF THE COMMISSION

Although the idea of the consolidation or refunding of the debt is not new, the project of the creation of a commission for this purpose received encouragement and impetus from the President in his inaugural message.

Another matter of vital importance is the economic, with especial reference to the public debt.

After an exhaustive and well considered study, and looking towards the settlement of a question which affects so profoundly the Republic, I have had in mind the idea of creating a commission, organized in such form as Congress may deem proper, which commission will make a careful examination into the circumstances relative to claims presented against the Government.

The work of this commission, in case the idea be accepted, should be finished before the high contracting parties, under the canal treaty, come to an agreement as to the disposition of the money available from these funds.

It is my desire to formulate a plan which will be mutually advantageous to all interested, and also to obtain a solid foundation on which to liquidate the entire debt of the country, and thus put the Government on a solid economic footing.

January 23, 1917. A bill was presented to Congress in session.

February 14, 1917. Enacted into law.

March 14, 1917. The commission was installed.

March 22, 1917. The first printed circular to creditors was distributed.

April 27, 1917. Regulations approved.

May 28, 1917. Second circular to creditors.

June 11, 1917. The existence of the commission was extended to September 14.

September 12, 1917. The existence of the commission was further extended

to December 31, 1917 or such time as might be necessary.

Copies of the laws, decrees, and circulars are shown in the appendix.¹

ORGANIZATION

Mr. Martin Benard, Minister of Finance, was chosen as president of the commission and Mr. A. F. Lindberg, Deputy Collector General and Auditor of the Customs Service, was appointed as the other commissioner in accord with the Department of State of the United States, and Mr. Alberto Zelaya, Secretary.

The staff of the commission consisted at the time of installation of one clerk, one typewriter operator and an office boy, later increased by four bookkeepers as the claims began to accumulate.

PROCEDURE, REGISTRATION AND CLASSIFICATION

The number of claims presented to this date is 3,069. Amount claimed as principal is \$11,093,148.17. Accrued interest to December 31, 1916, is \$1,559,297.65. Total amount claimed, including principal and interest at December 31, 1916, is \$12,652,445.82. Included in this total are duplicate claims to the amount of \$461,690.15. The number of claimants is naturally greater, as many claims are presented by one person as agent or with power of attorney. Probably 5,000 claimants are represented in these claims. As soon as a claim or statement of credit is received it is dated, given a claim number, and a postal card advice is sent to the creditor advising him of the receipt of the claim and giving him the claim number. He is also given a signature card to

¹ Not printed.

fill out which will facilitate the payment to the proper person and is a protection both to the Government and to the creditor.

The claim is then examined to see if all the data required by the circulars is included. If not, the claimant is written to for the necessary information. Copies of the above forms are shown in the appendix.¹

The claim was then registered, first as to principal, interest and total, to develop general totals and especially to know the amount of accrued interest claimed, which was appalling.

As soon as the staff was increased the classification of the claim was made (see No. 9 in appendix¹). This is one of the important phases of the work, and serves as a basis for administrative judgment by the commission. After the classification, the issuance of notes, certifications, etc., is verified with the stubs, as to number, date, amount, and name of payee. The awards of the Mixed Claims Commission were also verified with the original records.

PUBLICITY

Another important feature of the work of the commission was to give publicity to all creditors, foreign and native, of the circulars of the commission. In addition to publication in the *Official Gazette*, in the newspapers, and sending batches of circulars to administrative officials for distribution and posting, circulars were mailed direct to foreign correspondents, and to each individual creditor, excepting holders of Mixed Claims judgments.

The object of this was to get the listing and closest registration possible of the debt, and to reduce clerical labor and correspondence.

Due to the three years' existence of the Mixed Claims Commission it was thought that a public announcement of the requirements of the commission would be sufficient. However, it was found in a final revision that Mixed Claims judgments of 1,354 persons and amounting to \$280,479.94 had not been presented. Circulars have therefore been sent to the address of each and every one who had not sent in his claim.

Special effort was also made to secure the presentation of all unpaid budgetary obligations and a circular was sent to all governors and treasurers to notify creditors and to post the notice.

GOVERNORS, TREASURERS AND SUBTREASURERS:

For information of the public, I take pleasure in transmitting the following ruling of the Commission on Public Credit.

BUDGET OBLIGATIONS

The data of all budget obligations incurred and payable prior to December 31, 1916, should be sent to the Commission on Public Credit. This cancels the exception which was made in the first circular to creditors of March 22 in the last paragraph before the note. Acknowledge receipt.²

No attempt to advertise in foreign newspapers was made, principally because the budget allowance for the commission was limited and reliance was placed on foreign and Nicaraguan consuls to advise foreigners as well as banks and agents residing in Nicaragua.

Credit is due the local press without exception, not only for publishing the printed matter of the commission without charge, but also for supporting the work of the commission.

GENERAL PRINCIPLES OF THE COMMISSION

In view of the necessities of the situation every creditor was impressed with the idea that if his credit was a good one, for cash loaned, for merchandise sold or services rendered, that the commission would ask him to voluntarily rebate; if his credit was not of this kind the revision would be done by the commission. The response made was extremely gratifying as practically all creditors in large sums offered some concessions, either in reduction of principal, waiving of interest or reduction in interest. A list of these creditors is given in Exhibit "B."¹ From this point of view alone the commission has accomplished its object and saved for the Republic hundreds of thousands of dollars. Friendly agreements with creditors have been sought for as far as possible, but without losing sight of the fact that the debt as revised should not exceed

¹ Not printed.

² See *Official Gazette*, No. 131, June 18, 1917.

a certain limit. At this writing the commission hopes that the debt can be consolidated and refunded on a basis of not more than \$5,500,000 or approximately \$1,500,000 in cash and an authorization for \$4,000,000 worth of bonds.

No advantage has been taken of legal technicalities to refuse to receive or register a claim, through lack of presentation within the time limit prescribed by the commission. An extension of 14 days, to August 14, for claims from the interior and west coast was given. Since that date about 500 claims have been received, registered, classified and awards made.

No creditor has been refused a hearing, although it can be readily understood that with the large number of creditors living abroad or in towns in Nicaragua remote from the capital it would be impossible for every creditor to appear personally or even in the person of an agent or attorney.

CLAIMS OF FOREIGNERS

Numerous conferences and interviews have been held with Honorable B. L. Jefferson, American Minister to Nicaragua, Honorable Charles Alban Young, British Minister to Central America, Baron d'Avril, French Minister to Central America, Dr. David Campari, Italian Consul General to Nicaragua, and Mr. Vicente Rodriguez, Spanish Consul General to Nicaragua. All of these gentlemen have ably and always in a friendly way advocated the interests of their nationals, at the same time recognizing the necessities of the situation.

Several meetings with creditors have been held both in Managua and Granada, when the general situation as well as certain classes of credits were discussed.

GERMAN CLAIMS

The commission as yet has come to no decision with reference to claims of German subjects due to the status of affairs between Nicaragua and Germany. As far as is known all German subjects have presented a statement of their credits, but each and every one, as well as the Swiss, have protested against Articles 2 and 3 of the law creating the commission.¹ In the settlement of foreign claims, particularly war claims, the commission has always borne in mind treaty rights and obligations between Nicaragua and foreign countries. . . .

GENERAL CONSIDERATIONS ABOUT THE DEBT CONSOLIDATION

As to the advantages of consolidating the internal debt, the commission has faith and enthusiasm in the results of its work. For Nicaragua a floating debt of this size, divided approximately 57 per cent held by natives and 43 per cent held by foreigners, not only has its serious economic effects and possibility of international complications, but is a political menace. Its settlement will stabilize business transactions, help Nicaragua's credit at home and abroad, put the creditors in a stronger position as bondholders than as document holders, and every bondholder will have more of an interest in the financial affairs of the Government. The creditor who receives his interest or amortization promptly is going to pay his taxes and other Government charges with less resistance or disinclination.

There has been some discussion on the part of creditors that Nicaragua is repudiating its debt. One of the fundamental principles enunciated by the commission is the following:

No part of the true, legitimate and acknowledged debt of the Republic will be repudiated.

For those who have this idea in mind the following considerations should be borne in mind:

- (1) That the will of the majority will govern;
- (2) That many credits which bear no interest, are of comparatively recent origin and have no special security, are now converted into interest-bearing bonds, and with special security; also that an excessive issue of bonds will affect their value;
- (3) That Congress which approved payments considered as acts of grace can also repeal them;

¹ *Foreign Relations, 1917*, p. 1119.

- (4) That Congress, in order to provide funds for the settlement of the debt as desired by claimants, could impose additional direct taxation which might prove more costly to the claimant than his acceptance of a scaling in his credit.

A great deal might be written as to the general origin of the debt, and surrounding incidents. However, the commission is confronted with an existing situation, and its object is not to locate responsibility as to why, when and how the debt has been incurred, but to revise and consolidate it. A large debt was inherited from the Zelaya régime, increased during the Conservative régime by the issue of several millions of national bills and by the Mena revolution, and all this, together with a budget deficit of \$400,000, was inherited by the present administration.

An economical administration with reference to expenses and a careful collection of all Government revenues will preserve the equilibrium of the budget, and the natural resources of the country and its recuperative powers will have its effect on Government revenues so that the internal debt can be amortized rapidly. The effect of the distribution of \$1,500,000 will no doubt be very beneficial in every way to creditors as well as its complementary effect on Government revenues.

The commission wishes to acknowledge the cordial support received by the First Magistrate of the Nation and his Cabinet, and ex-President Diaz.

Particular mention is made of the cooperation of Mr. Camilo Barcenas, Treasurer General, as well as Mr. F. E. Martinez, President of the Tribunal of Accounts. Legal opinions which the commission wishes to acknowledge with thanks have been received from Dr. Manuel Pasos, Judge of the Supreme Court, Dr. Carlos Cuadra Pasos, formerly member of the Mixed Claims Commission, and Dr. Maximo H. Zepeda, Member of the House of Deputies.

The Ministry of Foreign Affairs has acted as the means of communication of and for the distribution of the printed matter of the commission to foreign ministers and consuls in Nicaragua, as well as to Nicaraguan ministers and consuls in foreign countries.

The commission has the honor to remain with assurances of its esteem and consideration,

Respectfully,

OCTAVIANO CÉSAR
President

A. F. LINDBERG
Commissioner

File No. 817.51/1088

The Minister in Nicaragua (Jefferson) to the Secretary of State

[Telegram—Extract]

MANAGUA, February 7, 1918, 3 p. m.

Department's telegram January 31, 4 p. m. In regard to budget deficit, it might be possible to use railroad dividends referred to in my December 26, 10 a. m.¹ or balance of customs revenues pertaining to last half of November and December 1917. Nicaraguan Government seems willing for High Commission to supervise payment of this deficit.

Preliminary report of Public Credit Commission to Foreign Office will be forwarded by next pouch, probably reaching the Department before the end of this month. This report does not give figures and details of each and every claim.

In addition to data already sent, a full and complete confidential report by Lindberg continues in preparation and will be very detailed in comments and figures and will be rendered to the Department after

¹ Not printed.

the payments have been made following precedent of Mixed Claims Commission.

The commission has made all awards with the exception of pending claims of Augustin Chamorro for \$288,000 and of Salvador Castrillo for \$9,000.

The following is condensed information about payment of certain claims:

French diplomas [diplomatic?] (Brimont) scaled 50 per cent, 75 per cent in cash and 25 per cent bonds; Dutch diplomas [diplomatic?] (Howitzerseck) scaled 60 per cent, 15 per cent cash and 85 per cent bonds; Italian diplomas [diplomatic?] (D'Auria) scaled 50 per cent, 50 per cent cash and 50 per cent bonds; claim of Widow Urry, death of English husband, scaled from \$12,500 to \$10,000, to be paid all in cash same as Cannon and Groce; claims of Cuadra family, Salvador Chamorro, and Diego Chamorro for exactions in times of Zelaya on following basis: cut out interest, scaled 20 per cent from principal, paid 50 per cent cash and 50 [per cent?] bonds; claim of Adolfo Díaz, cut out interest including large amount of 1913 bonds, 20 per cent from principal, and balance 50 per cent cash and 50 per cent bonds and also cut out Aroniburu notes aggregating \$128,525; claim of Amsinck & Co. cut to \$224,284.67; Weinberger Bros. to receive nothing; Mutual Alliance Trust Co. claim, sent by Department, all in cash; American Investment Corp. claim cut to \$8,576.40.

Following amounts by nationalities represent total claimed and total awarded.¹ . . .

JEFFERSON

File No. 417.00/243

The Commissioner on Public Credit (Lindberg) to the Secretary of State

MANAGUA, February 9, 1918.

INTERIM REPORT NO. 3

SIR: I have the honor to submit herewith some data furnished to the American Minister in connection with a cable request for information.

No. of claims presented	3,808
No. of claimants (estimated)	5,200
Amount claimed, principal	\$11,505,069.92
" " interest	1,566,279.13
Total amount claimed	\$13,071,349.05
Add Mixed Claims judgments not presented	117,244.11
Less claims duplicated	\$13,188,593.16 539,036.55
	\$12,649,556.61

¹ Not printed here. See following report of February 9, 1918, of Commissioner Lindberg.

The following information is given in reference to certain diplomatic claims:

French diplomatic claim (Brimont)—scaled 50 per cent, 75 per cent in cash and 25 per cent in bonds.

Dutch diplomatic claim (Hueck)—scaled 60 per cent, 15 per cent in cash and 85 per cent in bonds.

Italian diplomatic claim (D'Auria)—scaled 50 per cent, 50 per cent cash and 50 per cent bonds.

Widow Urry, death of English husband, scaled from \$12,500 to \$10,000, to be paid all in cash, same as Cannon and Groce.

The following three claims settled directly by the Executive in March 1911, were made the subject of friendly agreements.

Claims of Cuadra family, Salvador Chamorro and Diego Manuel Chamorro for exactions in time of Zelaya on following basis, cut out interest, scale 20 per cent from principal, 50 per cent in cash and 50 per cent bonds.

Claim of Adolfo Diaz, cut out interest including large amount of 1913 bonds, 20 per cent from principal, and balance 50 per cent cash and 50 per cent bonds; also cut out Aramburu notes aggregating \$128,525.

Mutual Alliance Trust Co. All in cash.

The figures by nationalities are approximate, but substantially correct. In many cases the commission, lacking the statement of the creditor, can only guess at his nationality. All of the names included in correspondence sent to the Department by foreign embassies or legations are included. The Swiss claims are shown under Germans as their matters were handled in the past by the German Minister.

BY NATIONALITIES	TOTAL CLAIMED	TOTAL AWARDED
Americans -----	\$3,198,105.92	\$658,423.98
Italians -----	886,735.81	515,157.77
Germans -----	736,763.39	261,614.71
British -----	780,299.75	291,526.58
French -----	95,123.12	34,285.45
Spanish -----	45,604.57	11,465.05
Dutch -----	130,467.18	52,812.58

There is appended hereto (Exhibit "A") a statement of the claims of \$100,000 and over.¹ Percentage figures between amounts claimed and awarded cannot be used with safety, as the large claims include many classes of Government debt, as well as huge sums of interest charged.

Flat percentages in the revision downwards have been used in some cases. These large claims have been thoroughly analyzed, followed by hearings, and generally friendly agreements made. This feature has been emphasized in order to avoid charge of repudiation, especially among foreigners.

The figures of foreign war claims have been in most cases discussed and settled by conferences with the foreign diplomats or consuls.

¹ Not printed.

The easy method of a flat percentage has not been followed, but each individual case studied and settled on its merits.

Very respectfully,

A. F. LINDBERG
Commissioner

File No. 417.00/240

*The Acting Secretary of State to the Minister in Nicaragua
(Jefferson)*

[Telegram]

WASHINGTON, March 6, 1918, 4 p. m.

Your February 7, 3 p. m. Lindberg's reports of February 4 and February 9 just received.

Cable Department list of American creditors and names of those to whom awards have been made; also amounts of awards. Are these claimants ready to accept awards and waive all further rights against Nicaragua? Have they already done so; if not, is it planned that they sign waivers upon payment of awards? If waiver has been prepared, cable text as well as text of receipt.

Also cable brief report on American claims rejected and grounds for rejection.

POLK

File No. 417.00/244

The Minister in Nicaragua (Jefferson) to the Secretary of State

[Telegram]

MANAGUA, March 11, 1918, 4 p. m.

Department's March 6, 4 p. m. Friendly agreements have been made with practically all creditors over \$100,000 and many under this amount, when the character and origin of the credit was such as to merit such arrangement. In the other cases commission has served notice and claimant can accept or reject. Procedure similar to that used in bankruptcy cases in the United States has been followed, although much investigation and analysis back of the document of credit and its supporting proofs have been made.

No claimant will receive cash or bonds or both without signing combined receipt and release form marked No. 12 in Lindberg's report of February 4.¹ Following is translation of text:

Receipt. I hereby solemnly declare that on my claim or credit presented to the Commission on Public Documents against the Government of the Republic of Nicaragua there has been received in cash ——, in bonds ——; I declare moreover that I irrevocably renounce for myself and my successors any claim directly, or indirectly on the validity of this payment or its amount, for whatever difference or right I may have, it is understood that I wish to cede it in favor of the State.

With the delivery of the documents to the High Commission and their indorsement, the indorsements on checks or drafts which refer to the claim number, the use of signature cards, and finally require-

¹ Not printed.

ment to sign receipt and release form, we believe both Government [of] Nicaragua and creditors are protected.

The commission estimates that 60 per cent of the creditors will accept awards at once, 30 per cent may wait six months or year to secure if Government pays interest and amount, and 10 per cent will perhaps never accept. With reference to judgment of Mixed Claims Commission,¹ in the interest of Americans not included in this list who are original claimants or direct heirs thereof, the commission does not touch amounts of award and hopes to pay 15 per cent cash and 85 per cent bonds, excepting all claims under \$100 to be paid in cash. It should be noted that many American claimants have had part of their claims entirely disallowed either by friendly agreements or by the commission without consultation with creditor. The bulk of the claims before the commission is recognized debt of the Republic and not unproven claims and the commission has used drastic measures to reduce it to an amount the Republic can handle. Some American claimants hold documents of Nicaraguans as collateral such as in case of Amsinek and Co.

[Here follow the claims of American citizens with the amounts awarded.]

Following are the claims of American citizens rejected:

J. Adler: Duplicated in claim of Stern Foundry & Machinery Co.

W. R. Burt: Is external debt.

New Orleans National Bank: Accommodation paper of New Orleans and Central American Shipbuilding Co. No consideration in contract with Government. Commission holder notes of Beer, manager of company.

Pacific Mail Steamship Co.: Principal and accrued interest on unpaid subvention. Company has not billed Government bonds freight and fares according to contract and also receives other compensatory advantages from the Republic.

Weinberger Bros.: One concession and equity doubtful. Should have been presented to Mixed Claims Commission even if part of notes were not then due.

Jacob Weinberger: Credit includes accrued interest; *bona-fide* part of document taken up in award to Central American Commercial Co. of which he is manager. Some supporting documents of doubtful origin.

JEFFERSON

File No. 417.00/246

The Minister in Nicaragua (Jefferson) to the Secretary of State

[Telegram]

MANAGUA, March 21, 1918, 3 p. m.

I have been urged by the High Commission and many creditors who have accepted awards of the Public Credit Commission to request the Department to authorize as early as possible the High Commission to begin payments of awards.

¹ For institution of Mixed Claims Commission see *Foreign Relations*, 1911, p. 625.

The High Commission cabled Nicaraguan Chargé d'Affaires Enriquez with reference to this matter.

It is my opinion that payments should begin as soon as possible as it will relieve the economic situation here.

JEFFERSON

File No. 417.00/245

The Secretary of State to the Minister in Nicaragua (Jefferson)

[Telegram]

WASHINGTON, March 21, 1918, 5 p. m.

Your telegram March 11, 4 p. m. Please telegraph:

1. Whether each claim you report as rejected was considered by commission on its merits in accordance with principles laid down in enclosure to Mr. Lindberg's report to Department dated February 4, 1918.

2. If so, telegraph fully explanation of grounds assigned for rejecting each claim.

3. If not, telegraph fully reasons for rejecting each claim without such consideration.

Include in telegram concise statement of total amount cash and bonds allotted on all claims and total amount cash and bonds available for payment of awards.

Supplement telegraphic report by mailing copies of opinions or declarations made by commission with respect to each rejected claim.

Department intends examining rejected claims with view to considering whether action of commission justified. If it finds rejection unjust, Department will urgently request reconsideration by commission if commission remains legally in existence. If commission is no longer in existence, Department will determine what, if anything, would be fair compensation in cases of rejected claims and will insist that compensation, according to Department's conclusions, be included in prorating funds and bonds available for payment of claims.

Reason for Department's action in requesting above information is that attorney for Weinberger interests has filed letter with Department asking if Department will take up claims rejected by commission through diplomatic channels.

Department wishes to avoid any unnecessary embarrassment both for Government of United States and for Government of Nicaragua and therefore wishes to proceed along lines set forth.

You may inform General Chamorro that delay has been caused on account of wishes of United States Government that there be no unnecessary and possibly embarrassing matters left for decision at a later time, and that whole matter of claims may be closed up finally once for all.

You may also inform him that the Nicaraguan Chargé d'Affaires has been continually pressing this Government for early payment.

Department cannot consent to immediate distribution cash unless sufficient surplus remains to settle rejected claims if Department finally concludes that they should be paid in whole or in part.

LANSING

File No. 417.00/248

The Minister in Nicaragua (Jefferson) to the Secretary of State

[Telegram]

MANAGUA, March 26, 1918, 2 p. m.

Replying to the Department's March 21, 5 p. m. The following reasons are given by the commission for each rejected claim, all of which appear to have had due consideration:

J. Adler duplicated in claim of Stern Foundry & Machinery Co. which had been awarded \$2,500.

W. R. Burt *ex-officio* claim based on letter to State Department. On investigation found to be external debt which was arranged at the time of Ethelburga settlement and with Brown Bros. in 1912. Pertains to New Orleans loan of 1904, and according to advice from Brown Bros. has received payment on bonds matured.

New Orleans National Bank, New Orleans, and Central American Trading Co. on the verge of bankruptcy in 1911 and, alleging moral and material support to revolution, persuaded Government to make accommodation paper for \$90,000 in return for Manager A. V. Beer's notes aggregating \$100,000, both accommodation signatures. Beer also agreed to execute mortgage in favor of Government on store building and contents, which was not done. Commission has these notes of Beer. There was no legal consideration to contract and both parties understood it as only paper transaction. Afterwards company had fire and went into bankruptcy. Is improbable present holders gave value for documents or are ignorant of incidents concerning their origin and acquisition by Beer. When issued in November 1911 Government did not even set up debit and credit transactions on its books.

Pacific Mail Steamship Co. only American steamship line on West Coast for several years and no competition, therefore, could obtain subvention from Government. Contract of 1902 provides for annual payment of \$9,000 silver in quarterly installments but contract practically lapsed through action of both parties. Company broke contract through failure to grant contract rates on Government fares and cargo, did not live up to provisions of providing regular service. Government did not pay its subvention. Exemption of port dues on behalf of this Government and mail service on the part of company about equal. In addition, the Government has erected modern and expensive lighthouses at Corinto and San Juan del Sur, and by facilitating receiving and clearing of company's ships has materially reduced cost of operation in Nicaraguan ports. Other steamship companies performed same service and received no subvention. Provisions of contract call for arbitration, but no demand made by company. Company did not answer letter of commission.

Weinberger Bros.

(a) Prescription. These documents of credit which are not on books of the Government, a fact suspicious in itself, had in part matured in time for Mixed Claims Commission. If owners had confidence in their validity, would have presented them. A favorable decision of commission on early notes would probably have validated

later ones. Solomon and Weinberger cannot claim either ignorance or carelessness.

(b) Claims are solely from onerous concessions. All concessions of this sort held by these claimants canceled by Mixed Claims Commission. This is one of a series of transaction in which Zelaya, Irias, Solomon, and the Weinbergers participated. The latter two exploiting concessionaries. It has required two commissions to arrange these matters: the Mixed Claims Commission on the ice and purchasing agency concessions, and the present commission to squeeze the water out of the claims recognized by the Republic in Zelaya régime.

(c) The only property involved, wharf at Bluefields, according to trustworthy official information in hand, already amply paid for to Solomon. Lindberg has personal knowledge of property.

(d) No proof offered that Weinberger gave value to Solomon for documents. Presumption is to contrary.

(e) The commission is unanimous in its assertion that this claim is one of the weakest, both from view of legality and equity, that has come to its notice. No other claims have so discredited Americans in eyes of just men.

(f) Another creditor in Managua, one of the ablest and best posted Nicaraguan creditors holding similar documents with exactly same printed conditions, was so convinced of their fraudulent nature that he did not even present them among his other claims.

(g) Claims fully examined by all three members of the commission. Opinion is unanimous against it.

Jacob Weinberger. The transaction of the Central American Commercial Co., Jacob Weinberger and Mr. Gutierrez Peña, both the latter having been managers, are so interwoven that the commission included any possible equity in this claim in its award to the company which has been accepted verbally by Peña, leaving the two managers to settle their equities among themselves. The company did make cash loans to Government and also included a lot of documents which were not cash, not forgetting always to take a profit on exchange.

American Investment Corp. Although this claim was not rejected *in toto*, reduction is so great as to produce the same effect. Prescription per law on presentation of customs bonds followed as case was adjudicated by the Government in 1913 and commission has followed rule of not reopening such cases. Absence of reliable proof that value was really given in exchange for these bonds as required by rules of commission. Amount of award only demonstrating enough to secure delivery of documents, if possible, or if refused, to form basis of proper legal proceedings by the Nicaraguan Government to get amount of award. Balance of documents acquired through misuse of position of president—graft from foreigners in their enterprises and control over Government fiscal operations.

The commission is in existence but is not accepting new claims. Its work is so dovetailed with the High Commission that not until payments are finished will it cease its functions.

Total amount of awards of the commission is as follows: cash \$1,426,696.79; bonds \$3,800,000; total, \$5,226,696.79.

Amount of cash available: customs revenues, in the hands of Collector General of Customs \$1,092,695.96; funds in the United States as per advices from financial agent \$334,000.83; total cash \$1,426,696.79.

Authorization by Congress for the issue of guaranteed customs bonds in an amount not to exceed \$4,000,000.

Customs revenues on hand with Collector General of Customs pertaining to last half November and December 1917, \$66,992.94.

General Chamorro upon learning that payment could not be made at once by the commission showed great disappointment and informed me that he had formed the commission at the request of the Department for the purpose of settling all claims and that he hoped that the Department would insist upon all accepting the awards of the commission, thereby avoiding any unnecessary embarrassment for the Government of the United States as well as for himself.

JEFFERSON

File No. 417.00/253

The Commissioner on Public Credit (Lindberg) to the Secretary of State

MANAGUA, April 2, 1918.

INTERIM REPORT NO. 4

SIR: In reply to a recent cable sent to the American Minister I have the honor to transmit to you herewith three copies of the certified awards in connection with six American claims disallowed *in toto* and one disallowed in part, with the reasons therefor shown in detail.¹

The commission has given as much or more study to the rejected claims than to others, not only in accord with the principles enunciated but many other incidents, which it is deemed inadvisable to incorporate in its public records, for reasons which can be understood.

The rules of prescription were not detailed in the report of February 4, but the four followed in general were those in reference to Mixed Claims Commission, war claims of 1912, customs bonds, and general prescription of legal rights left dormant or unexercised for a considerable length of time.

The commission is in existence but it is not accepting new claims. Its work is so dovetailed with the High Commission that not until payments are finished will it cease its functions.

Attention is invited to the fact that the commission, due to shortness of time, to lack of office personnel and appropriations, and that the bulk of investigation and work of analysis has fallen upon and had to be assumed by one member, did not permit of preparing long legal opinions, findings and statements of facts in each individual claim, but every decision made after study and application of rules.

The only reason for the probable success of its work is loss of hope on part of creditors and the extraordinary receipt of canal funds. The commission has relied upon and expects the support of the Nica-

¹ Not printed here. See telegram of March 26, 1918, 2 p. m., from the Minister in Nicaragua, *ante*, p. 843.

raguan Government in scaling claims of natives and of the United States Department of State in scaling claims of Americans and the foreigners. The law creating the commission gives it the authority to judge and fix the internal debt, and this fact together with the incidents surrounding its creation not only has inspired confidence in it among foreigners and natives but its awards will have great weight not only in the executive branch of the Government but also in the courts, and the minority creditor who does not come in is bolstering himself up with false hopes for an uncertain future. No tribunal or commission, no matter how strong or powerful, can compel the recalcitrant creditor to accept unless he so desires. Awards have not been officially sent to creditors due to uncertainty as to amount of cash available.

Furthermore, the commission has made friendly agreements with creditors which are binding and is loath to reconsider any award except under the most urgent circumstances, amounting to denial of justice. Confident none such can be found.

The total amount of awards of the commission are as follows:

In cash-----	\$1,426,696.79
In bonds-----	3,800,000.00
Total-----	<u>\$5,226,696.79</u>

Amount of cash available:

Customs revenues in hands of Collector General of Customs-----	\$1,092,695.96
Funds in United States as per advices from financial agent-----	334,000.83
Total cash-----	<u>\$1,426,696.79</u>

Authorization by Congress for the issue of guaranteed customs bonds in an amount not to exceed-----	\$4,000,000.00
Customs revenues on hand with Collector General of Customs pertaining to last half November and December, 1917-----	\$66,992.94

In the amount of bonds awarded is a small amount set aside for contingencies, concerning which you were advised by cable.

The following is a copy of a cable, signed by all three members of the High Commission, sent to the Nicaraguan financial agent, to be presented to the State Department:

The High Commission unanimously request the State Department to authorize them to begin payment of awards of Commission on Public Credit. The wait is causing discontent, interest is creeping up and agricultural operations are suffering from lack of funds. If budget deficit is delaying matters, why not interpret plan to begin functioning January 1, thus leaving available the balance of customs revenues of November and December, such budget deficit to be expended under rigid examination by High Commission. If any foreign diplomatic claim or others are delaying matters, commission will set aside small reserve enough for contingencies. Mere fact of beginning payments will exert favorable influence on a few strong creditors who have ideas of holding out.

CÉSAR
LINDBERG
JENKS

Respectfully submitted,

A. F. LINDBERG
Commissioner

File No. 417.00/248

The Secretary of State to the Minister in Nicaragua (Jefferson)

[Telegram]

WASHINGTON, April 3, 1918, 4 p. m.

In view of explanation contained in your telegram March 26, 2 p. m., Department disposed to consent to immediate payment of awards, reserving for later consideration cases of claims rejected by commission and awards rejected by claimants, as well as any other matters which may arise out of the fact that the Mixed Claims Commission and Public Credit Commission are regarded as purely local tribunals of Nicaragua.

Department cannot understand the statement contained in your cablegram January 21, 11 a. m., "Claimants who have not presented data as to their judgments have been protected and reserve set aside," in view of statement in your March 26, 2 p. m., "Total amount of awards of the commission is as follows: Cash \$1,426,696.79," and statement that total available cash is the same figure. The consent of the Department to immediate payment of awards is of course contingent upon accuracy of statement referred to above in regard to setting aside of a reserve fund to protect claimants who have not presented data. If this reserve fund has been set aside, Lindberg is authorized to proceed with the payments. So inform Government of Nicaragua.

Claim on account of death of Groce was settled diplomatically by this Government with the Nicaraguan Government and payment should be made to the Legation. According to Department's records Legation advanced \$5,625.10 to Mrs. Groce to January 31, 1918. Deduct amount mentioned plus amount advanced since January 31 from proceeds of claim. Remit amount deducted to Department and balance to Mrs. Groce, taking her receipt as required by commission, and discontinue advances to Mrs. Groce.

LANSING

File No. 417.00/250

The Minister in Nicaragua (Jefferson) to the Secretary of State

[Telegram]

MANAGUA, April 5, 1918, 11 a. m.

Department's April 3, 4 p. m. Statement contained in my telegram of January 29, 11 a. m., refers to judgments of Mixed Claims Commission not parts of Public Credit Commission. Reserve is included in total awards of both cash and bonds as follows: Cash \$27,587.31, bonds \$92,250, total \$119,837.31.

Reserve referred to in cablegram of commission to Enriquez is \$130,000 in bonds in excess of amount cash and bonds awarded and is included in amount of \$400,000.

Please confirm statement of Enriquez that the amount held in the United States Treasury is \$334,000.83, subject to the order of the High Commission, available for gold payments. In accordance with treaty, Minister of Finance will notify Department to deposit these funds to order of the High Commission.

If the above sum in the Treasury is correct, and the Department so desires, I will immediately notify Ham to transfer money held by him to the High Commission and also to inform Government of Nicaragua.

JEFFERSON

The Secretary of State to the Minister in Nicaragua (Jefferson)

[Telegram]

WASHINGTON, April 19, 1918, 3 p. m.

Your April 5, 11 a. m. The sum of \$334,840.83, which is total remainder of \$3,000,000 treaty monies, is not in United States Treasury but is in American Security & Trust Co. of Washington, D. C., where it has been since November last. It was deposited in accordance with the treaty provisions to order of Government of Nicaragua and may be withdrawn only upon order of Mr. Enriquez representing Minister of Finance of Nicaragua and approved by Mr. Stabler designated by the Secretary of State.

High Commission should send list of amounts to be paid from this sum to Mr. Enriquez who will present order approved by Mr. Stabler to the American Security & Trust Co. to make payments direct on behalf of the Government of Nicaragua.

With understanding that all awards of Mixed Claims Commission are provided for in allotment of funds, you may notify Ham to transfer money held by him to High Commission and so inform Government of Nicaragua.

LANSING

File No. 817.51/1088

The Acting Secretary of State to the Minister in Nicaragua (Jefferson)

[Telegram]

WASHINGTON, April 20, 1918, 7 p. m.

Your January 21, 4 p. m., Department's January 31, 4 p. m. Your February 7, 3 p. m. Nicaraguan Chargé d'Affaires has presented request of his Government to the effect that approval be given for payment of deficit using \$66,000 held by Ham, being customs revenues for November and December. Provided this amount has not been in any way included in sum to be applied to Public Credit Commission's and other awards and provided this expenditure for deficit in no way conflicts with financial plan, and High Commission has agreed on use of this money for payment of deficit, Department is disposed to acquiesce in use of this money as desired by Nicaraguan Government under supervision of High Commission.

POLK

File No. 417.00/254

The Minister in Nicaragua (Jefferson) to the Secretary of State
[Telegram—Extract]

MANAGUA, May 6, 1918, 11 a. m.

In accordance with instructions contained in Department's April 3, 4 p. m., I have informed Nicaraguan Government and High Commission to proceed with the payments.

JEFFERSON

File No. 417.00/253

The Secretary of State to the Minister in Nicaragua (Jefferson)
No. 215.

WASHINGTON, July 12, 1918.

SIR: The Department has received a letter dated April 2, 1918, from Mr. Lindberg, regarding the work of the Public Credit Commission of Nicaragua, in which he states that the commission relies upon the support of the Nicaraguan Government in scaling claims of natives, and upon the support of the Department of State in scaling claims of Americans and foreigners.

As indicated by the Department's telegram to the Legation of April 3, 4 p. m., the Department reserves for later consideration cases of claims rejected by the commission, and of awards rejected by claimants, as well as any other matters arising out of the fact that the Mixed Claims Commission and the Public Credit Commission are regarded as purely local tribunals of Nicaragua. No assurance can therefore be given as to what the attitude of the Department will be toward claimants who are dissatisfied with the action of the Public Credit Commission.

You may request the Nicaraguan Government to inform Mr. Lindberg of the above.

I am [etc.]

For the Secretary of State:

ALVEY A. ADEE

BOUNDARY DISPUTE WITH HONDURAS

Refusal of Nicaragua to Accept the Arbitral Award Rendered by the King of Spain in 1906; Good Offices of the United States; Commissioners Sent to Washington

(See pages 11-34)

91114°—30—61

NORWAY

AGREEMENT BETWEEN THE UNITED STATES AND NORWAY EXTENDING THE DURATION OF THE ARBITRATION CONVENTION OF APRIL 4, 1908¹

File No. 711.5712/16

The Norwegian Minister (Bryn) to the Secretary of State

WASHINGTON, March 7, 1918.

MR. SECRETARY OF STATE: By the agreement signed between Norway and the United States of America on June 16, 1913, the arbitration convention concluded between them on April 4, 1908, was extended for a period of five years from June 24, 1913.²

As the date on which said period will expire is now approaching, I have been instructed to inform your excellency that the Norwegian Government is desirous of extending the said convention for a further period of five years, from June 24, 1918, and venture to hope that this wish is reciprocated by the United States Government. For this event I have been authorized to negotiate with your excellency about the conclusion of the necessary agreement, and I have the honor to enclose a draft for such agreement.³

Please accept [etc.]

H. BRYN

File No. 711.5712/17

The Secretary of State to the Norwegian Minister (Bryn)

No. 409

WASHINGTON, March 23, 1918.

SIR: I have the honor to acknowledge the receipt of your note of the 7th instant by which you inform me that you have been authorized to negotiate with me an agreement extending for a further period of five years, the arbitration convention between the United States and Norway signed on April 4, 1908, and extended until June 24, 1913, by an agreement between the two countries signed June 16, 1913.

The draft of the proposed agreement has been found entirely acceptable to this Government, and I shall be happy to sign the protocol with you at 11.30 o'clock Tuesday morning, March 26, if it shall be convenient for you to call at the Department at that time for the purpose.

Accept [etc.]

ROBERT LANSING

¹ *Foreign Relations*, 1908, p. 663.

² *Ibid.*, 1914, p. 970.

³ Not printed.

Treaty Series No. 632

Agreement signed at Washington, March 30, 1918; ratification advised by the Senate, April 30, 1918; ratified by the President, July 1, 1918; ratified by Norway, May 14, 1918; ratifications exchanged at Washington, July 1, 1918; proclaimed July 12, 1918

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

WHEREAS an Agreement between the United States of America and the Kingdom of Norway extending for another period of five years the duration of the Arbitration Convention of April 4, 1908, was concluded and signed by their respective Plenipotentiaries at Washington, on the thirtieth day of March, one thousand nine hundred and eighteen, the original of which Agreement, being in the English and Norwegian languages, is word for word as follows:

The Government of the United States of America and the Government of the Kingdom of Norway, being desirous of continuing for another period of five years the Arbitration Convention concluded between them on April 4, 1908, which by the terms of the Agreement signed between them on June 16, 1913, will expire on June 24, 1918, have authorized the undersigned, to wit: Robert Lansing, Secretary of State of the United States, and H. H. Bryn, Envoy Extraordinary and Minister Plenipotentiary of Norway to the United States, to conclude the following Agreement:

ARTICLE I

The Convention of Arbitration of April 4, 1908, between the Government of the United States of America and the Government of the Kingdom of Norway, which by the terms of the Agreement signed between them on June 16, 1913, will terminate on June 24, 1918, is hereby extended and continued in force for a further period of five years from June 24, 1918.

ARTICLE II

The present Agreement shall be ratified by the President of the United States of America, by and with the advice and consent of the Senate thereof; and by His Majesty the King of Norway, and it shall become effective upon the date of the exchange of ratifications, which shall take place at Washington as soon as possible.

Done in duplicate in the English and Norwegian languages, at Washington this 30th day of March one thousand nine hundred and eighteen.

ROBERT LANSING [SEAL]
HELMER H. BRYN [SEAL]

And whereas, the said Agreement has been duly ratified on both parts, and the ratifications of the two governments were exchanged in the City of Washington, on the first day of July, one thousand nine hundred and eighteen.

Now, therefore, be it known that I, Woodrow Wilson, President of the United States of America, have caused the said Agreement

to be made public, to the end that the same and every article and clause thereof may be observed and fulfilled with good faith by the United States and the citizens thereof.

In testimony whereof, I have hereunto set my hand and caused the seal of the United States to be affixed.

Done in the District of Columbia this twelfth day
of July in the year of our Lord one thousand nine
[SEAL] hundred and eighteen, and of the Independence of the
United States of America the one hundred and forty-
third.

WOODROW WILSON

By the President:

FRANK L. POLK

Acting Secretary of State

ABROGATION OF THE TREATY OF JULY 4, 1827, CERTAIN PRO-
VISIONS OF WHICH CONFLICTED WITH THE SEAMEN'S ACT OF
MARCH 4, 1915

(See pages 5-9)

PANAMA

CLAIMS OF AMERICAN CITIZENS AGAINST PANAMA ON ACCOUNT OF INJURIES RECEIVED DURING THE RIOT AT COCOA GROVE, PANAMA, FEBRUARY 14, 1915¹

File No. 419.11C64/34

The Minister in Panama (Price) to the Secretary of State

No. 1932

PANAMA, April 29, 1918.

SIR: With reference to the Department's Instruction No. 276 of August 21, 1916, relative to the riots which took place in Panama City on the night of the 13th-14th of February, 1915, and to the Department's implied desire to receive further information in regard to the steps which the Panaman Government is taking in the matter, I have the honor to state that in reply to a note dated October 21, 1916, in which I requested the Minister for Foreign Affairs to give me full information as to future developments in the matter, I received a note dated October 26, 1916, in which the Secretary of State for Foreign Affairs informed me that the investigations of the riot had been ended, were in the hands of the Superior Court, and that the decisions would soon be rendered, whereupon, he assured me, the texts thereof would be transmitted to me.

Not having received any further information on the subject, on March 13, 1918, I addressed another note to the Secretary of Foreign Affairs in which I referred to his previous note, the contents of which I set forth in the preceding paragraph, and urged him to acquaint me with the nature of the decision rendered. I am now in receipt of his reply, transmitting voluminous enclosures which would appear to be the written testimony of the witnesses and other persons connected with the matter of the riots, including statements and opinions made by court officials.

A careful examination of the translations of these documents clearly shows that the Panaman authorities are of the opinion that it is impossible to definitely ascertain the causes of the riot. This is due to the conflicting nature and vagueness of the accounts of the manner in which the riot started. Consequently it would appear to be impossible to fix definitely the blame for the disturbances on either the Panamans or the American soldiers. Nevertheless, an examination of the documents leads to the following conclusions:

- (a) That the disturbance is said to have been started by an American soldier who forcibly attempted to take a horn from a Panaman boy who was blowing it;
- (b) That a Panaman policeman attempted to stop the disturbance;

¹ Continued from *Foreign Relations*, 1915, p. 1186.

- (c) That this attracted the attention of several American soldiers who immediately assaulted the policeman; and
- (d) That the disturbance quickly turned into a brawl by numerous Panaman citizens who joined in, according to the testimony, not necessarily in order to assist the Panaman policeman.

1. A fact which is clearly brought out by the information submitted to this Legation is that one person was actually killed during the riot. This person was Benito Garcia, referred to both as Nicaraguan and Costa Rican. It appears to be satisfactorily established that the American soldiers were not responsible for his death, inasmuch as it was found that he was killed by a bullet of different size than those used by the American soldiers. It is apparently absolutely impossible to ascertain who is responsible for the man's death.

2. The only definite fact established by the testimony is the shooting of Sixta Vasquez by Rodolfo Acuna, a Panaman policeman. The woman, Sixta Vasquez, later died of tetanus as a result of the wound, caused by Acuna, becoming infected.

3. Acuna was to have been brought to trial on the charge of having wounded Sixta Vasquez (not on the charge of murder), because of the fact that the wound of itself had not been fatal. On January 4, 1917, Acuna died of consumption, a fact which was officially brought to the knowledge of the Superior Judge, who thereupon gave orders for the suspension of proceedings in the trial.

4. This order for the suspension of proceedings was later confirmed by the Supreme Court of Justice.

In view of the fact that Rodolfo Acuna was the only person, who was connected with the riots in question, who was definitely accused of any crime, and in view of the fact of his death, with the result that proceedings in his case had to be canceled, it would appear that all investigation, action and proceedings of the appropriate Panaman authorities in regard to the investigation of the blame for the riot have been indefinitely suspended.

A translation of the note of Secretary Garay with the enclosures mentioned will be sent later.

I have [etc.]

W.M. JENNINGS PRICE

File No. 419.11C64/35

The Chargé in Panama (Greene) to the Secretary of State

No. 1990

PANAMA, June 19, 1918.

SIR: With reference to the Department's unnumbered instruction of May 16, 1918, relative to the Minister's despatch No. 1932 of April 29, last, in which he stated that he had received a note from the Foreign Office in answer to his own regarding the riots which took place in Panama City on the night of the 13th-14th of February, 1915, and to the statement that the Department awaits the promised translation of the note of the Secretary for Foreign Affairs of Panama, I have the honor to transmit herewith enclosed the note in question, dated April 13, together with its enclosure which sets forth the testimony of the witnesses and other persons who were connected

with, or took part in, the riots above referred to. This also includes the statements and opinions made by the court officials.

I have [etc.]

ELBRIDGE GERRY GREENE

[Enclosure—Translation]

The Panaman Secretary for Foreign Affairs (Garay) to the American Minister (Price)

No. 810

PANAMA, April 13, 1918.

MR. MINISTER: Relative to the courteous note of your excellency, F. O. No. 535, of the 13th of March last, in which I am informed that you have instructions from the Department of State asking information regarding the state of investigations made by the Panamanian judicial authorities in the case of the riot which occurred in this city during the night from February 13th to 14th of 1915, between American soldiers, officers of the national police and several civilians, I have the honor to transmit to your excellency a copy of the more important parts of the report.

As your excellency will see, the Superior Judge of the Republic, the official who took charge of the investigation of the affair, gave out a decree of continuance [suspension?], which was later confirmed by the Supreme Court of Justice.¹

I take this opportunity [etc.]

NARCISO GARAY

[Subenclosure—Translation]

SUPREME COURT OF JUSTICE,
PANAMA, February 9, 1917.

NOTICE: This voluminous summary was begun the 14th of February 1915 by the municipal court judge, with the purpose of investigating the matters occurring in this city on the night of the 13th to the 14th of the said month, in the district of the "Cocoa Grove".

From decrees it results that on the night of the 13th of the month referred to, on Carnival Saturday, there were about 100 American soldiers in and near Pedro de Obarrio Street frequenting the saloons established there. It happened that about 12 o'clock at night there arrived at the first of the said streets a group of Panamanian boys, one of whom was playing a cornet. One of the soldiers mentioned tried by force to stop him from playing the cornet. With this motive an agent of the police started to intervene, and he was attacked and struck by various American soldiers. Perceiving that attack, many Panamanian civilians stepped in to keep the soldiers from killing the agent thus ending in a fight between American soldiers and Panamanian civilians which increased even up to the use of firearms, stones and sticks thrown by the American soldiers against the Panamanian police and citizens.

Then the soldiers invaded the establishment of target shooting of the North American citizen, Charlie Roocard, from which they took out various rifles with which shots they increased the firing right and left, attacking especially the police prison "La Victoria", throwing stones at the small number of agents on guard there. The people succeeded in repelling that attack, assisting the police and suffering blows of stones that the soldiers threw at them.

It is a matter of fact that the police made use of their revolvers shooting into the air in order to see if that intimidation would stop the attack started between numerous soldiers and civilians; and although some of those soldiers state that the police shot directly at them, the agents accused by them have not been identified.

As the judge says, whether the Panamanian police, in the riot of which we are treating, found themselves or not in the necessity of using their firearms, is a very complex question, and consequently difficult to determine. The right of defense of one's own life is natural but the police had more means of defense than the civilians for the sole reason that they are one corps. Nevertheless, in the attack in question some policemen might well have been placed in the case of defending their lives by arms because of not being able to receive, in the exact moment at which they were individually attacked, effective aid from their companions, being that, at least at first, the soldiers were much

¹ Only the Supreme Court's final decree printed.

greater in number than the policemen. Even Lieut. C. W. Edgarly [G. W. Edgerly], in the plea which he presented to the military authorities of the Zone, says among other things, that at arriving at the saloon called "Jossie's Place" he found many men, soldiers, civilians, white and black, and a policeman engaged in what resembled a pitched battle in which each one threw at the others without distinction. The policeman was without a hat, his hair disheveled, covered with blood, his clothes in rags and without a stick.

From this encounter there resulted, as was natural, wounds and bruises to various civilians, Panamanian police, and soldiers and American civilians; but with the confusion, which in cases like that is produced, it has not been possible to determine those responsible for those injuries and ill treatment of one or the other of the contenders and the circumstances of each one of the facts which produced them, nor is there any indication which might help the situation in the clearing of the happenings from the beginning to the end; nor has there been able to be found, the one responsible for the death of Benito Garcia occurring in the encounter.

Likewise, there have not been able to be identified those responsible, from the civilians who invaded the saloon "La Valenciana" and committed in it robbery of money and materials, as in the other saloons of the red-light district.

There has only been found out the fact that the wound inflicted on Sixta Vasquez was from a rifle fired by the agent, Rodolfo Acuna, towards the saloon, "La Valencia", the doors being closed. Vasquez died the 16th of March 1915 but not from the natural effect of the said wound but because of a lockjaw.

The Superior Judge to whose knowledge this matter has been brought, inasmuch as a homicide resulted from the riot, the death of Benito Garcia, has ended the investigation, overruling in respect to the matters originating in the tumult and fight because of there not appearing any person responsible for it in spite of the many efforts made to identify him; and called to judgment Rodolfo Acuna for the crime of wounds; but as after that decision which was dated the 18th of December last, it was proven that Acuna died in this city the 4th of January, he declared ended all criminal proceedings against him and decided to send the matter to this Superior Court so that a suspension decree might be furnished, which the court considers correct, after the exposition which was just made.

Likewise is the opinion of the Attorney General as can be seen by the judgment which precedes.

Therefore, the court, "en Sala de Decision" administering justice in the name of the Republic and by authority of the law, confirms the suspension decree consulted. Be it published, copy made, notified and proceedings returned.

MANUAL A. HERRERA L.

JUAN LOMBARDI

SAMUEL QUINTERO C.

HERMONEGES CASIS, Srio. Int.

The Secretary of State to the Minister in Panama (Price)

No. 547

WASHINGTON, September 3, 1918.

SIR: Referring to your despatch No. 1990 of June 19, 1918, and to other previous correspondence regarding the Panama City riot of February 14, 1915, in which a number of American soldiers and civilians were wounded, you are instructed to present a claim against the Panamanian Government for the lump sum of ten thousand dollars which this Government is willing to accept in full satisfaction of claims which have been filed with the Department as a result of that riot.

It seems unnecessary, in view of the correspondence which has passed between your Legation and the Panaman Foreign Office with reference to this matter, to furnish to that office at this time more than the following brief narrative of what appear to be the principal facts of the case:

The origin and the details of the disturbance are variously stated by numerous witnesses, so that it seems impossible to determine with accuracy exactly how the trouble arose. However, it appears that on the evening of February 13 a large number of American soldiers, who were at the time unarmed, had congregated in the Cocoa Grove or "red-light district" of the City of Panama, and that at a late hour of that evening or early the next morning a trifling argument or dispute between several of the soldiers and Panaman civilians was made the occasion for interference by the police. Panaman civilians and policemen then started an attack on the soldiers, during which the police became unduly excited and opened fire on the soldiers who, in order to protect themselves, took possession of a nearby shooting gallery, seized three Flobert rifles and returned the fire, which seems to have constituted all the firing done by the soldiers. Directly thereafter, Lieutenant Edgerly, who happened to be near the scene, took the rifles from the soldiers. He then attempted to assist in quieting the disturbance by means of a patrol which he formed into a cordon across the street in order to hold the soldiers in check. A similar cordon was formed by the police in front of the gathering mob of Panamans, but this line was soon dissolved, whereupon the mob advanced throwing sticks and firing revolvers and rifles at the soldiers.

It is stated by many witnesses that the police played no small part in this attack. The soldiers, on the other hand, were reduced to order and retreated, finally reaching Canal Zone territory, all the time being pursued and fired upon by the mob. Some of the witnesses at the proceeding of the court-martial gave their opinion that between two and three hundred shots were fired during a period of three-quarters of an hour. The police were armed with high-powered and bayoneted rifles, and the character of the injuries received by the soldiers apparently leaves little doubt but that these rifles were put to frequent use.

Following the retreat of the main body of troops to the Canal Zone, the police broke down the doors of the Panama Athletic Club where several American soldiers and civilians were located. Persons within were then mistreated by the police and driven out of the club into the hands of the mob.

Private Stettler, who had been injured in the first encounter and had taken refuge in the Panama Athletic, was there, while in a very serious condition, abused by the police and put in jail without being allowed medical attention. He was not released till late the next morning because of his refusal to absolve the police from all blame. Among the people who were driven from the Panama Club were several American civilians who were engaged in work either in the Canal Zone or on the Panama Railway.

The riot seems to have spread from its place of origin to various parts of the city, and wherever soldiers or even American civilians were found they were mistreated by the police and the mob. In fact, soldiers who were entirely unconcerned with the first quarrel and were at some distance from the scene were dragged from carriages, in which they were riding, and beaten by Panaman policemen and civilians. Many soldiers who were arrested were maltreated by the police even after they had been placed in jail.

The result of the whole disturbance appears to have been that about thirty or more American soldiers and several American civilians, besides about thirteen Panaman policemen and civilians, were injured, and a Nicaraguan was killed. While it is not denied that the soldiers were not entirely blameless with respect to the origin of the disturbance, yet it seems that the first shooting was done by the police, and that the only shots that were fired by American soldiers were at the shooting gallery, when they were forced to protect themselves. Moreover, it is admitted by all parties that few shots were fired at that time. The evidence tends to show that there was no intent on the part of the soldiers to start any trouble when they entered the Cocoa Grove district, a conclusion which is corroborated by the fact that the American soldiers were unarmed. The Panaman police, on the other hand, seem to have become greatly excited and, far from carrying out their duty of protecting the soldiers, directly assisted the mob in every possible way. Instead of trying to restore order, they seem to have been most actively concerned in promoting disorder.

Briefly, it is maintained by the Government of the United States that resort to firearms by the Panaman police and the fact that these policemen, instead of performing their duty to protect American citizens from the mob, actively joined that mob in its vicious assault upon such American citizens, affords good ground for claiming indemnity from the Government of Panama.

Moreover, there is another phase of the case which this Government feels called upon to emphasize. Notwithstanding the urgent request that those responsible for these outrages against American soldiers and civilians be speedily brought to justice, only one person, Rodolfo Acuna, was brought to trial on a definite charge, being accused of wounding a Panaman woman who died a month later of lockjaw. After the trial had dragged along for many months, Acuna died of tuberculosis and all legal proceedings concerning the riot seem to have been abandoned.

The attitude of the Panaman authorities unfortunately seems to have been one which would tend to encourage further outrages of this kind. The courts apparently seized the slightest excuse to throw the entire blame on the American soldiers, and even went so far as to say that the Panaman police shot in the air with the idea of frightening the soldiers, when it seems clear from the evidence that many American soldiers sustained injuries caused by guns with which the Panaman police were armed. Nor was any concerted action taken toward discovering the offenders, and proceedings seem to have been conducted without a real desire to establish the facts of the case and place responsibility where it belonged. It is not unlikely that if a rigorous investigation had been instituted, the persons responsible could have been ascertained, and apprehension and conviction of the guilty parties would have been possible.

Therefore, this Government is reluctantly compelled to believe that there was on the part of the responsible officials of Panama great lack of appreciation of the respect and good will of a sincerely friendly foreign state and of the rights of its citizens. Moreover, this Government calls attention to the fact that this is not the only time that such lack of appreciation has been manifested, and refers in this connection particularly to the disturbances at Colon on April 5, 1915,

when, without fault on their part, one American soldier was killed, and several others wounded, and yet no punishment was meted out by the Panaman authorities to the guilty persons.

In view of the foregoing, this Government must state that, of course, it cannot consent to its citizens being maltreated and injured in a foreign country under circumstances such as have been narrated without demanding that the Government, some of whose agents have participated in the offense, while others have permitted the guilty persons to escape punishment, grant due reparation to the injured American citizens.

The claim is herewith presented as a single case because of the number and character of the persons involved and is made in behalf of all persons who were injured while under American protection, and who have made claims on account of such injuries. The Government will, of course, make such disposition of the funds as is equitable in view of all the circumstances.

The list of the claimants includes Morris Berkowitz, Nathan H. Kelly, Erich Jeschke, Joseph Steinbrenner, Walter Organ, Morris Stettler, Lowndes O. Webb, Oliver G. Reber, Charles Jagatich, Henry Foster, Joseph A. Donnelly, Everett E. Bowden, George Simon, Frank Mosouskie, Augustine A. Kane, Webster T. Brandon, Joseph Balun, and Henry G. Baldwin, and the evidence submitted in support of the claims leads to the conclusion that all of these persons received injuries of considerable severity.

You will bring this matter to the attention of the Foreign Office in the sense of the foregoing and say that, in the view of this Government, the indemnity specified is very modest, and, that, due to the fact that it is the desire of this Government to be as lenient with the Panaman Government as a proper regard for national dignity and the rights of its citizens will permit, the amount has been calculated at a much lower rate than would be justified by the claims which have been filed in the matter and which this Government has no reason to believe to be excessive. You will explain to the Panaman Government, however, that in making this concession this Government confidently expects that the Panaman Government will avail itself of an early opportunity to make a settlement and will take all possible steps in avoiding another altercation of a similar nature.

I am [etc.]

ROBERT LANSING

File No. 419.11C64/37

The Minister in Panama (Price) to the Secretary of State

No. 2126

PANAMA, October 9, 1918.

SIR: I have the honor to report compliance with the Department's Instruction No. 547 of September 3 (File No. 319.112C64/35)¹, received by this Legation October 7, directing me to present a claim for damages against the Government of Panama in the sum of ten thousand dollars, as a result of the riot which took place in Panama City on the night of February 13-14, 1915.

I enclose a copy of the note addressed to the Panaman Foreign Office in carrying out said instruction.

I shall report duly further developments herein.

I have [etc.]

W.M. JENNINGS PRICE

¹Ante, p. 856 (File No. 419.11C64/35).

[Enclosure]

*The American Minister (Price) to the Panaman Secretary for Foreign Affairs
(Garay)*

No. 683

PANAMA, October 8, 1918.

EXCELLENCY: Making reference to note S. P. No. 810 of April 13, 1918, from your excellency's predecessor and to other previous correspondence regarding the riot which took place in the city of Panama on the night of February 13-14, 1915, in which a number of American soldiers and civilians were wounded, I have the honor to place before your excellency the following instruction which has been given this Legation by his excellency, the Secretary of State of the United States, namely:

[Here follows transcript of Department's instruction No. 547, September 3, 1918.]

While awaiting your excellency's response, I avail [etc.]

W.M. JENNINGS PRICE

SPAIN

ABROGATION OF THE TREATY OF JULY 3, 1902, CERTAIN PROVISIONS OF WHICH CONFLICTED WITH THE SEAMEN'S ACT OF MARCH 4, 1915

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